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TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY
TRIBUNALS

FULL TEXT SEARCHING OF THE FINAL REPORT AND THE 42 VOLUME INTERNATIONAL MILITARY TRIBUNAL SET (GREY BOOKS) AND THE 11 VOLUME NAZI CONSPIRACY AND AGGRESSION SET (RED BOOKS) AND THE 16 VOLUME NUREMBERG MILITARY TRIBUNAL SET (GREEN BOOKS) IS AVAILABLE ON CD-ROM IN THE GOVERNMENT DOCUMENTS DEPARTMENT: "NUREMBERG WAR CRIMES TRIAL ONLINE", JX5437.N8/1995x.

VOLUME XII

"THE MINISTRIES CASE"

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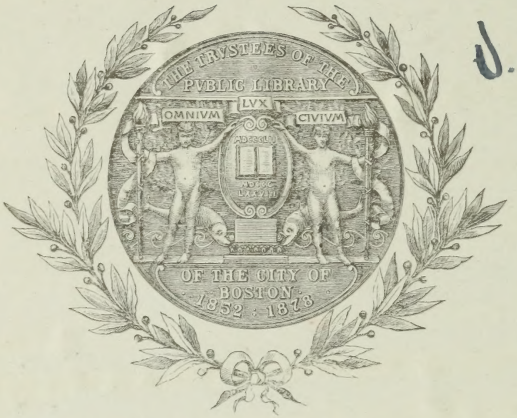

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TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10

VOLUME XII

NUERNBERG
OCTOBER 1946–APRIL 1949

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Vol. 12

U.S. Superintendent of Documents
Jan. 3, 1952

PREFACE

In April 1949, judgment was rendered in the last of the series of 12 Nuernberg war crimes trials which had begun in October 1946 and were held pursuant to Allied Control Council Law No. 10. Far from being of concern solely to lawyers, these trials are of especial interest to soldiers, historians, students of international affairs, and others. The defendants in these proceedings, charged with war crimes and other offenses against international penal law, were prominent figures in Hitler's Germany and included such outstanding diplomats and politicians as the State Secretary of the Foreign Office, von Weizsaecker, and cabinet ministers Schwerin von Krosigk and Lammers; military leaders such as Field Marshals von Leeb, List, and von Kuechler; SS leaders such as Ohlendorf, Pohl, and Hildebrandt; industrialists such as Flick, Alfried Krupp, and the directors of I. G. Farben; and leading professional men such as the famous physician Gerhard Rose, and the jurist and Acting Minister of Justice, Schlegelberger.

In view of the weight of the accusations and the far-flung activities of the defendants, and the extraordinary amount of official contemporaneous German documents introduced in evidence, the records of these trials constitute a major source of historical material covering many events of the fateful years 1933 (and even earlier) to 1945, in Germany and elsewhere in Europe.

The Nuernberg trials under Law No. 10 were carried out under the direct authority of the Allied Control Council, as manifested in that law, which authorized the establishment of the Tribunals. The judicial machinery for the trials, including the Military Tribunals and the Office, Chief of Counsel for War Crimes, was prescribed by Military Government Ordinance No. 7 and was part of the occupation administration for the American Zone, the Office of Military Government (OMGUS). Law No. 10, Ordinance No. 7, and other basic jurisdictional or administrative documents are printed in full hereinafter.

The proceedings in these trials were conducted throughout in the German and English languages, and were recorded in full by stenographic notes, and by electrical sound recording of all oral proceedings. The 12 cases required over 1,200 days of court proceedings and the transcript of these proceedings exceeds 330,000 pages, exclusive of hundreds of document books, briefs, etc. Publication of all of this material, accordingly, was quite unfeasible. This series, however, contains the indictments, judgments, and other important portions of the record of the 12 cases, and it is believed that these materials give a fair picture of the trials, and as full and illuminating a picture as is possible within the space

available. Copies of the entire record of the trials are available in the Library of Congress, the National Archives, and elsewhere.

In some cases, due to time limitations, errors of one sort or another have crept into the translations which were available to the Tribunal. In other cases the same document appears in different trials, or even at different parts of the same trial, with variations in translation. For the most part these inconsistencies have been allowed to remain and only such errors as might cause misunderstanding have been corrected.

Volumes XII, XIII and XIV of this series are dedicated to the trial *United States of America* vs. *Ernst von Weizsaecker, et al.* (Case 11). This trial, commonly known as the "Ministries case," was the longest of the Nuernberg trials. When judgment was rendered in this case on 11, 12, and 13 April 1949, all of the other Nuernberg trials had been completed.

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ARRANGEMENT BY SUBJECT UNITS FOR PUBLICATION*

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* Although the subject material in many of the cases overlaps, it was believed that this arrangement of the cases by volumes would be most helpful to the reader and the most feasible for publication purposes.

DECLARATION ON GERMAN ATROCITIES

[Moscow Declaration]

Released November 1, 1943

THE UNITED KINGDOM, the United States and the Soviet Union have received from many quarters evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by the Hitlerite forces in the many countries they have overrun and from which they are now being steadily expelled. The brutalities of Hitlerite domination are no new thing and all the peoples or territories in their grip have suffered from the worst form of government by terror. What is new is that many of these territories are now being redeemed by the advancing armies of the liberating Powers and that in their desperation, the recoiling Hitlerite Huns are redoubling their ruthless cruelties. This is now evidenced with particular clearness by monstrous crimes of the Hitlerites on the territory of the Soviet Union which is being liberated from the Hitlerites, and on French and Italian territory.

Accordingly, the aforesaid three allied Powers, speaking in the interests of the thirty-two [thirty-three] United Nations, hereby solemnly declare and give full warning of their declaration as follows:

At the time of the granting of any armistice to any government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for, or have taken a consenting part in the above atrocities, massacres, and executions, will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be created therein. Lists will be compiled in all possible detail from all these countries having regard especially to the invaded parts of the Soviet Union, to Poland and Czechoslovakia, to Yugoslavia and Greece, including Crete and other islands, to Norway, Denmark, the Netherlands, Belgium, Luxemburg, France and Italy.

Thus, the Germans who take part in wholesale shootings of Italian officers or in the execution of French, Dutch, Belgian, or Norwegian hostages or of Cretan peasants, or who have shared in the slaughters inflicted on the people of Poland or in territories of the Soviet Union which are now being swept clear of the enemy, will know that they will be brought back to the scene of their crimes and judged on the spot by the peoples whom they have outraged. Let those who have hitherto not imbrued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three allied Powers will pursue them to the uttermost ends of the earth and will deliver them to their accusers in order that justice may be done.

The above declaration is without prejudice to the case of the major criminals, whose offences have no particular geographical localisation and who will be punished by the joint decision of the Governments of the Allies.

[Signed]

Roosevelt
Churchill
Stalin

EXECUTIVE ORDER 9547

PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES

By virtue of the authority vested in me as President and as Commander in Chief of the Army and Navy, under the Constitution and statutes of the United States, it is ordered as follows:

1. Associate Justice Robert H. Jackson is hereby designated to act as the Representative of the United States and as its Chief of Counsel in preparing and prosecuting charges of atrocities and war crimes against such of the leaders of the European Axis powers and their principal agents and accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal. He shall serve without additional compensation but shall receive such allowance for expenses as may be authorized by the President.

2. The Representative named herein is authorized to select and recommend to the President or to the head of any executive department, independent establishment, or other federal agency necessary personnel to assist in the performance of his duties hereunder. The head of each executive department, independent establishment, and other federal agency is hereby authorized to assist the Representative named herein in the performance of his duties hereunder and to employ such personnel and make such expenditures, within the limits of appropriations now or hereafter available for the purpose, as the Representative named herein may deem necessary to accomplish the purposes of this order, and may make available, assign, or detail for duty with the Representative named herein such members of the armed forces and other personnel as may be requested for such purposes.

3. The Representative named herein is authorized to cooperate with, and receive the assistance of, any foreign Government to the extent deemed necessary by him to accomplish the purposes of this order.

HARRY S. TRUMAN

THE WHITE HOUSE,
May 2, 1945.

(F. R. Doc. 45-7256; Filed, May 3, 1945; 10:57 a.m.)

LONDON AGREEMENT OF 8 AUGUST 1945

AGREEMENT by the Government of the UNITED STATES OF AMERICA, the Provisional Government of the FRENCH REPUBLIC, the Government of the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the Government of the UNION OF SOVIET SOCIALIST REPUBLICS for the Prosecution and Punishment of the MAJOR WAR CRIMINALS of the EUROPEAN AXIS

WHEREAS the United Nations have from time to time made declarations of their intention that War Criminals shall be brought to justice;

AND WHEREAS the Moscow Declaration of the 30th October 1943 on German atrocities in Occupied Europe stated that those German Officers and men and members of the Nazi Party who have been responsible for or have taken a consenting part in atrocities and crimes will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free Governments that will be created therein;

AND WHEREAS this Declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographical location and who will be punished by the joint decision of the Governments of the Allies;

NOW THEREFORE the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics (hereinafter called "the Signatories") acting in the interests of all the United Nations and by their representatives duly authorized thereto have concluded this Agreement.

Article 1. There shall be established after consultation with the Control Council for Germany an International Military Tribunal for the trial of war criminals whose offenses have no particular geographical location whether they be accused individually or in their capacity as members of organizations or groups or in both capacities.

Article 2. The constitution, jurisdiction and functions of the International Military Tribunal shall be those set out in the Charter annexed to this Agreement, which Charter shall form an integral part of this Agreement.

Article 3. Each of the Signatories shall take the necessary steps to make available for the investigation of the charges and trial the major war criminals detained by them who are to be tried by the International Military Tribunal. The Signatories shall also use their best endeavors to make available for investigation of the charges against and the trial before the International Military Tribunal such of the major war criminals as are not in the territories of any of the Signatories.

Article 4. Nothing in this Agreement shall prejudice the provisions established by the Moscow Declaration concerning the return of war criminals to the countries where they committed their crimes.

Article 5. Any Government of the United Nations may adhere to this Agreement by notice given through the diplomatic channel to the Government of the United Kingdom, who shall inform the other signatory and adhering Governments of each such adherence.

Article 6. Nothing in this Agreement shall prejudice the jurisdiction or the powers of any national or occupation court established or to be established in any allied territory or in Germany for the trial of war criminals.

Article 7. This agreement shall come into force on the day of signature and shall remain in force for the period of one year and shall continue thereafter, subject to the right of any Signatory to give, through the diplomatic channel, one month's notice of intention to terminate it. Such termination shall not prejudice any proceedings already taken or any findings already made in pursuance of this Agreement.

IN WITNESS WHEREOF the Undersigned have signed the present Agreement.

DONE in quadruplicate in London this 8th day of August 1945 each in English, French and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
ROBERT FALCO

For the Government of the United Kingdom of Great Britain and Northern Ireland
JOWITT, C.

For the Government of the Union of Soviet Socialist Republics
I. NIKITCHENKO
A. TRAININ

I. CONSTITUTION OF THE INTERNATIONAL MILITARY TRIBUNAL

Article 1. In pursuance of the Agreement signed on the 8th day of August 1945 by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics, there shall be established an International Military Tribunal (hereinafter called "the Tribunal") for the just and prompt trial and punishment of the major war criminals of the European Axis.

Article 2. The Tribunal shall consist of four members, each with an alternate. One member and one alternate shall be appointed by each of the Signatories. The alternates shall, so far as they are able, be present at all sessions of the Tribunal. In case of illness of any member of the Tribunal or his incapacity for some other reason to fulfill his functions, his alternate shall take his place.

Article 3. Neither the Tribunal, its members nor their alternates can be challenged by the prosecution, or by the Defendants or their Counsel. Each Signatory may replace its member of the Tribunal or his alternate for reasons of health or for other good reasons, except that no replacement may take place during a Trial, other than by an alternate.

Article 4.

(*a*) The presence of all four members of the Tribunal or the alternate for any absent member shall be necessary to constitute the quorum.

(*b*) The members of the Tribunal shall, before any trial begins, agree among themselves upon the selection from their number of a President, and the President shall hold office during that trial, or as may otherwise be agreed by a vote of not less than three members. The principle of rotation of presidency for successive trials is agreed. If, however, a session of the Tribunal takes place on the territory of one of the four Signatories, the representative of that Signatory on the Tribunal shall preside.

(*c*) Save as aforesaid the Tribunal shall take decisions by a majority vote and in case the votes are evenly divided, the vote of the President shall be decisive: provided always that convictions and sentences shall only be imposed by affirmative votes of at least three members of the Tribunal.

Article 5. In case of need and depending on the number of the matters to be tried, other Tribunals may be set up; and the establishment, functions, and procedure of each Tribunal shall be identical, and shall be governed by this Charter.

II. JURISDICTION AND GENERAL PRINCIPLES

Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(*a*) CRIMES AGAINST PEACE: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(*b*) WAR CRIMES: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or

deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(*c*) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.*

Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.

Article 8. The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

Article 9. At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

After receipt of the Indictment the Tribunal shall give such notice as it thinks fit that the prosecution intends to ask the Tribunal to make such declaration and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization. The Tribunal shall have power to allow or reject the application. If the application is allowed, the Tribunal may direct in what manner the applicants shall be represented and heard.

Article 10. In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national, military or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.

Article 11. Any person convicted by the Tribunal may be charged before a national, military or occupation court, referred to in Article 10 of this Charter, with a crime other than of membership in a criminal group or organization and such court may, after convicting him, impose upon him punishment independent of and additional to the punishment imposed by the Tribunal for participation in the criminal activities of such group or organization.

Article 12. The Tribunal shall have the right to take proceedings against a person charged with crimes set out in Article 6 of this Charter in his absence, if he has not been found or if the Tribunal, for any reason, finds it necessary, in the interests of justice, to conduct the hearing in his absence.

Article 13. The Tribunal shall draw up rules for its procedure. These rules shall not be inconsistent with the provisions of this Charter.

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* See protocol p. XVIII for correction of this paragraph.

III. COMMITTEE FOR THE INVESTIGATION AND PROSECUTION OF MAJOR WAR CRIMINALS

Article 14. Each Signatory shall appoint a Chief Prosecutor for the investigation of the charges against and the prosecution of major war criminals.

The Chief Prosecutors shall act as a committee for the following purposes:

(*a*) to agree upon a plan of the individual work of each of the Chief Prosecutors and his staff,

(*b*) to settle the final designation of major war criminals to be tried by the Tribunal,

(*c*) to approve the Indictment and the documents to be submitted therewith,

(*d*) to lodge the Indictment and the accompanying documents with the Tribunal,

(*e*) to draw up and recommend to the Tribunal for its approval draft rules of procedure, contemplated by Article 13 of this Charter. The Tribunal shall have power to accept, with or without amendments, or to reject, the rules so recommended.

The Committee shall act in all the above matters by a majority vote and shall appoint a Chairman as may be convenient and in accordance with the principle of rotation: provided that if there is an equal division of vote concerning the designation of a Defendant to be tried by the Tribunal, or the crimes with which he shall be charged, that proposal will be adopted which was made by the party which proposed that the particular Defendant be tried, or the particular charges be preferred against him.

Article 15. The Chief Prosecutors shall individually, and acting in collaboration with one another, also undertake the following duties:

(*a*) investigation, collection, and production before or at the Trial of all necessary evidence,

(*b*) the preparation of the Indictment for approval by the Committee in accordance with paragraph (*c*) of Article 14 hereof,

(*c*) the preliminary examination of all necessary witnesses and of the Defendants,

(*d*) to act as prosecutor at the Trial,

(*e*) to appoint representatives to carry out such duties as may be assigned to them,

(*f*) to undertake such other matters as may appear necessary to them for the purposes of the preparation for and conduct of the Trial.

It is understood that no witness or Defendant detained by any Signatory shall be taken out of the possession of that Signatory without its assent.

IV. FAIR TRIAL FOR DEFENDANTS

Article 16. In order to ensure fair trial for the Defendants, the following procedure shall be followed:

(*a*) The Indictment shall include full particulars specifying in detail the charges against the Defendants. A copy of the Indictment and of all the documents lodged with the Indictment, translated into a language which he understands, shall be furnished to the Defendant at a reasonable time before the Trial.

(*b*) During any preliminary examination or trial of a Defendant he shall have the right to give any explanation relevant to the charges made against him.

(*c*) A preliminary examination of a Defendant and his Trial shall be conducted in, or translated into, a language which the Defendant understands.

(*d*) A defendant shall have the right to conduct his own defense before the Tribunal, or to have the assistance of Counsel.

(*e*) A defendant shall have the right through himself or through his Counsel to present evidence at the Trial in support of his defense, and to cross-examine any witness called by the Prosecution.

V. POWERS OF THE TRIBUNAL AND CONDUCT OF THE TRIAL

Article 17. The Tribunal shall have the power

(*a*) to summon witnesses to the Trial and to require their attendance and testimony and to put questions to them,

(*b*) to interrogate any Defendant,

(*c*) to require the production of documents and other evidentiary material,

(*d*) to administer oaths to witnesses,

(*e*) to appoint officers for the carrying out of any task designated by the Tribunal including the power to have evidence taken on commission.

Article 18. The Tribunal shall

(*a*) confine the Trial strictly to an expeditious hearing of the issues raised by the charges,

(*b*) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevent issues and statements of any kind whatsoever,

(*c*) deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any Defendant or his Counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article 19. The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value.

Article 20. The Tribunal may require to be informed of the nature of any evidence before it is offered so that it may rule upon the relevance thereof.

Article 21. The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and the records and findings of military or other Tribunals of any of the United Nations.

Article 22. The permanent seat of the Tribunal shall be in Berlin. The first meetings of the members of the Tribunal and of the Chief Prosecutors shall be held at Berlin in a place to be designated by the Control Council for Germany. The first trial shall be held at Nuremberg, and any subsequent trials shall be held at such places as the Tribunal may decide.

Article 23. One or more of the Chief Prosecutors may take part in the prosecution at each Trial. The function of any Chief Prosecutor may be discharged by him personally, or by any person or persons authorized by him.

The function of Counsel for a Defendant may be discharged at the Defendant's request by any Counsel professionally qualified to conduct cases before the Courts of his own country, or by any other person who may be specially authorized thereto by the Tribunal.

Article 24. The proceedings at the Trial shall take the following course:

(*a*) The Indictment shall be read in court.

(*b*) The Tribunal shall ask each Defendant whether he pleads "guilty" or "not guilty".

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(*c*) The Prosecution shall make an opening statement.
(*d*) The Tribunal shall ask the Prosecution and the Defense what evidence (if any) they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of any such evidence.
(*e*) The witnesses for the Prosecution shall be examined and after that the witnesses for the Defense. Thereafter such rebutting evidence as may be held by the Tribunal to be admissible shall be called by either the Prosecution or the Defense.
(*f*) The Tribunal may put any question to any witness and to any Defendant, at any time.
(*g*) The Prosecution and the Defense shall interrogate and may cross-examine any witnesses and any Defendant who gives testimony.
(*h*) The Defense shall address the court.
(*i*) The Prosecution shall address the court.
(*j*) Each Defendant may make a statement to the Tribunal.
(*k*) The Tribunal shall deliver judgment and pronounce sentence.

Article 25. All official documents shall be produced, and all court proceedings conducted, in English, French and Russian, and in the language of the Defendant. So much of the record and of the proceedings may also be translated into the language of any country in which the Tribunal is sitting, as the Tribunal considers desirable in the interests of justice and public opinion.

VI. JUDGMENT AND SENTENCE

Article 26. The judgment of the Tribunal as to the guilt or the innocence of any Defendant shall give the reasons on which it is based, and shall be final and not subject to review.

Article 27. The Tribunal shall have the right to impose upon a Defendant, on conviction, death or such other punishment as shall be determined by it to be just.

Article 28. In addition to any punishment imposed by it, the Tribunal shall have the right to deprive the convicted person of any stolen property and order its delivery to the Control Council for Germany.

Article 29. In case of guilt, sentences shall be carried out in accordance with the orders of the Control Council for Germany, which may at any time reduce or otherwise alter the sentences, but may not increase the severity thereof. If the Control Council for Germany, after any Defendant has been convicted and sentenced, discovers fresh evidence which, in its opinion, would found a fresh charge against him, the Council shall report accordingly to the Committee established under Article 14 hereof, for such action as they may consider proper, having regard to the interests of justice.

VII. EXPENSES

Article 30. The expenses of the Tribunal and of the Trials, shall be charged by the Signatories against the funds allotted for maintenance of the Control Council for Germany.

PROTOCOL

Whereas an Agreement and Charter regarding the Prosecution of War Criminals was signed in London on the 8th August 1945, in the English, French, and Russian languages,

And whereas a discrepancy has been found to exist between the originals of Article 6, paragraph (*c*), of the Charter in the Russian language, on the one hand, and the originals in the English and French languages, on the

other, to wit, the semi-colon in Article 6, paragraph (*c*), of the Charter between the words "war" and "or", as carried in the English and French texts, is a comma in the Russian text,

And whereas it is desired to rectify this discrepancy:

NOW, THEREFORE, the undersigned, signatories of the said Agreement on behalf of their respective Governments, duly authorized thereto, have agreed that Article 6, paragraph (*c*), of the Charter in the Russian text is correct, and that the meaning and intention of the Agreement and Charter require that the said semi-colon in the English text should be changed to a comma, and that the French text should be amended to read as follows:

(*c*) LES CRIMES CONTRE L'HUMANITÉ: c'est à dire l'assassinat, l'extermination, la réduction en esclavage, la déportation, et tout autre acte inhumain commis contre toutes populations civiles, avant ou pendant la guerre, ou bien les persécutions pour des motifs politiques, raciaux, ou réligieux, lorsque ces actes ou persécutions, qu'ils aient constitué ou non une violation du droit interne du pays où ils ont été perpétrés, ont été commis à la suite de tout crime rentrant dans la compétence du Tribunal, ou en liaison avec ce crime.

IN WITNESS WHEREOF the Undersigned have signed the present Protocol.

DONE in quadruplicate in Berlin this 6th day of October, 1945, each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
FRANÇOIS DE MENTHON

For the Government of the United Kingdom of Great Britain and Northern Ireland
HARTLEY SHAWCROSS

For the Government of the Union of Soviet Socialist Republics
R. RUDENKO

CONTROL COUNCIL LAW NO. 10

PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES, CRIMES AGAINST PEACE AND AGAINST HUMANITY

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:

Article I

The Moscow Declaration of 30 October 1943 "Concerning Responsibility of Hitlerites for Committed Atrocities" and the London Agreement of 8 August 1945 "Concerning Prosecution and Punishment of Major War Criminals of the European Axis" are made integral parts of this Law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for in Article V of that Agreement, shall not entitle such Nation to participate or interfere in the operation of this Law within the Control Council area of authority in Germany.

Article II

1. Each of the following acts is recognized as a crime:

(*a*) *Crimes against Peace.* Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(*b*) *War Crimes.* Atrocities or offences against persons or property constituting violations of the laws or customs of war, including but not limited to, murder, ill-treatment or deportation to slave labour or for any other purpose of, civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(*c*) *Crimes against Humanity.* Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(*d*) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (*a*) a principal or (*b*) was an accessory to the commission of any such crime or ordered or abetted the same or (*c*) took a consenting part therein or (*d*) was connected with plans or enterprises involving its commission or (*e*) was a member of any organization or group connected with the commission of any such crime or (*f*) with reference to paragraph 1 (*a*), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life of any such country.

3. Any person found guilty of any of the Crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

(*a*) Death.

(*b*) Imprisonment for life or a term of years, with or without hard labour.

(*c*) Fine, and imprisonment with or without hard labour, in lieu thereof.

(*d*) Forfeiture of property.

(*e*) Restitution of property wrongfully acquired.

(*f*) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (*a*) The official position of any person, whether as Head of State or as a responsible official in a Government Department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(*b*) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity,

pardon or amnesty granted under the Nazi regime be admitted as a bar to trial or punishment.

Article III

1. Each occupying authority, within its Zone of occupation,

(*a*) shall have the right to cause persons within such Zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property, real and personal, owned or controlled by the said persons, pending decisions as to its eventual disposition.

(*b*) shall report to the Legal Directorate the names of all suspected criminals, the reasons for and the places of their detention, if they are detained, and the names and location of witnesses.

(*c*) shall take appropriate measures to see that witnesses and evidence will be available when required.

(*d*) shall have the right to cause all persons so arrested and charged, and not delivered to another authority as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof shall be determined or designated by each Zone Commander for his respective Zone. Nothing herein is intended to, or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any Zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each Zone Commander will deliver such persons who are within his Zone to that committee upon request and will make witnesses and evidence available to it.

4. Persons known to be wanted for trial in another Zone or outside Germany will not be tried prior to decision under Article IV unless the fact of their apprehension has been reported in accordance with Section 1 (*b*) of this Article, three months have elapsed thereafter, and no request for delivery of the type contemplated by Article IV has been received by the Zone Commander concerned.

5. The execution of death sentences may be deferred by not to exceed one month after the sentence has become final when the Zone Commander concerned has reason to believe that the testimony of those under sentence would be of value in the investigation and trial of crimes within or without his Zone.

6. Each Zone Commander will cause such effect to be given to the judgments of courts of competent jurisdiction, with respect to the property taken under his control pursuant hereto, as he may deem proper in the interest of justice.

Article IV

1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone

in which the crime was committed. Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence.

2. The Legal Directorate shall consider all requests referred to it, and shall determine the same in accordance with the following principles, its determination to be communicated to the Zone Commander.

(*a*) A person wanted for trial or as a witness by an International Military Tribunal shall not be delivered for trial or required to give evidence outside Germany, as the case may be, except upon approval of the Committee of Chief Prosecutors acting under the London Agreement of 8 August 1945.

(*b*) A person wanted for trial by several authorities (other than an International Military Tribunal) shall be disposed of in accordance with the following priorities:

(1) If wanted for trial in the Zone in which he is, he should not be delivered unless arrangements are made for his return after trial elsewhere;

(2) If wanted for trial in a Zone other than that in which he is, he should be delivered to that Zone in preference to delivery outside Germany unless arrangements are made for his return to that Zone after trial elsewhere;

(3) If wanted for trial outside Germany by two or more of the United Nations, of one of which he is a citizen, that one should have priority;

(4) If wanted for trial outside Germany by several countries, not all of which are United Nations, United Nations should have priority;

(5) If wanted for trial outside Germany by two or more of the United Nations, then, subject to Article IV 2 (*b*) (3) above, that which has the most serious charges against him, which are moreover supported by evidence, should have priority.

Article V

The delivery, under Article IV of this Law, of persons for trial shall be made on demands of the Governments or Zone Commanders in such a manner that the delivery of criminals to one jurisdiction will not become the means of defeating or unnecessarily delaying the carrying out of justice in another place. If within six months the delivered person has not been convicted by the Court of the zone or country to which he has been delivered, then such person shall be returned upon demand of the Commander of the Zone where the person was located prior to delivery.

Done at Berlin, 20 December 1945.

JOSEPH T. MCNARNEY
General

B. L. MONTGOMERY
Field Marshal

L. KOELTZ
Général de Corps d'Armée

for P. KOENIG
Général d'Armée

G. ZHUKOV
Marshal of the Soviet Union

EXECUTIVE ORDER 9679

AMENDMENT OF EXECUTIVE ORDER NO. 9547 OF MAY 2, 1945, ENTITLED "PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES"

By virtue of the authority vested in me as President and Commander in Chief of the Army and Navy, under the Constitution and statutes of the United States, it is ordered as follows:

1. In addition to the authority vested in the Representative of the United States and its Chief of Counsel by Paragraph 1 of Executive Order No. 9547 of May 2, 1945, to prepare and prosecute charges of atrocities and war crimes against such of the leaders of the European Axis powers and their accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal, such Representative and Chief of Counsel shall have the authority to proceed before United States military or occupation tribunals, in proper cases, against other Axis adherents, including but not limited to cases against members of groups and organizations declared criminal by the said international military tribunal.

2. The present Representative and Chief of Counsel is authorized to designate a Deputy Chief of Counsel, to whom he may assign responsibility for organizing and planning the prosecution of charges of atrocities and war crimes, other than those now being prosecuted as Case No. 1 in the international military tribunal, and, as he may be directed by the Chief of Counsel, for conducting the prosecution of such charges of atrocities and war crimes.

3. Upon vacation of office by the present Representative and Chief of Counsel, the functions, duties, and powers of the Representative of the United States and its Chief of Counsel, as specified in the said Executive Order No. 9547 of May 2, 1945, as amended by this order, shall be vested in a Chief of Counsel for War Crimes to be appointed by the United States Military Governor for Germany or by his successor.

4. The said Executive Order No. 9547 of May 2, 1945, is amended accordingly.

HARRY S. TRUMAN

THE WHITE HOUSE,
January 16, 1946.

(F. R. Doc. 46-893; Filed, Jan. 17, 1946; 11:08 a.m.)

HEADQUARTERS
US FORCES, EUROPEAN THEATER

GENERAL ORDERS
No. 301

24 OCTOBER 1946

Office of Chief of Counsel for War Crimes I
Chief Prosecutor II
Announcement of Assignments III

I____OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES. Effective this date, the Office of Chief of Counsel for War Crimes is transferred to the Office of Military Government for Germany (US). The Chief of Counsel for War Crimes will report directly to the Deputy Military Governor and

will work in close liaison with the Legal Adviser of the Office of Military Government for Germany and with the Theater Judge Advocate.

II____CHIEF PROSECUTOR. Effective this date, the Chief of Counsel for War Crimes will also serve as Chief Prosecutor under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

III____ANNOUNCEMENT OF ASSIGNMENTS. Effective this date, Brigadier General Telford Taylor, USA, is announced as Chief of Counsel for War Crimes, in which capacity he will also serve as Chief Prosecutor for the United States under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

BY COMMAND OF GENERAL MCNARNEY:

C. R. HUEBNER
Major General, GSC
Chief of Staff

OFFICIAL:
GEORGE F. HERBERT
Colonel, AGD
Adjutant General

DISTRIBUTION: D

MILITARY GOVERNMENT—GERMANY

UNITED STATES ZONE

ORDINANCE NO. 7

ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS

Article I

The purpose of this Ordinance is to provide for the establishment of military tribunals which shall have power to try and punish persons charged with offenses recognized as crimes in Article II of Control Council Law No. 10, including conspiracies to commit any such crimes. Nothing herein shall prejudice the jurisdiction or the powers of other courts established or which may be established for the trial of any such offenses.

Article II

(*a*) Pursuant to the powers of the Military Governor for the United States Zone of Occupation within Germany and further pursuant to the powers conferred upon the Zone Commander by Control Council Law No. 10 and Articles 10 and 11 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945 certain tribunals to be known as "Military Tribunals" shall be established hereunder.

(*b*) Each such tribunal shall consist of three or more members to be designated by the Military Governor. One alternate member may be designated to any tribunal if deemed advisable by the Military Governor. Except as

provided in subsection (*c*) of this Article, all members and alternates shall be lawyers who have been admitted to practice, for at least five years, in the highest courts of one of the United States or its territories or of the District of Columbia, or who have been admitted to practice in the United States Supreme Court.

(*c*) The Military Governor may in his discretion enter into an agreement with one or more other zone commanders of the member nations of the Allied Control Authority providing for the joint trial of any case or cases. In such cases the tribunals shall consist of three or more members as may be provided in the agreement. In such cases the tribunals may include properly qualified lawyers designated by the other member nations.

(*d*) The Military Governor shall designate one of the members of the tribunal to serve as the presiding judge.

(*e*) Neither the tribunals nor the members of the tribunals or the alternates may be challenged by the prosecution or by the defendants or their counsel.

(*f*) In case of illness of any member of a tribunal or his incapacity for some other reason, the alternate, if one has been designated, shall take his place as a member in the pending trial. Members may be replaced for reasons of health or for other good reasons, except that no replacement of a member may take place, during a trial, other than by the alternate. If no alternate has been designated, the trial shall be continued to conclusion by the remaining members.

(*g*) The presence of three members of the tribunal or of two members when authorized pursuant to subsection (*f*) *supra* shall be necessary to constitute a quorum. In the case of tribunals designated under (*c*) above the agreement shall determine the requirements for a quorum.

(*h*) Decisions and judgments, including convictions and sentences, shall be by majority vote of the members. If the votes of the members are equally divided, the presiding member shall declare a mistrial.

Article III

(*a*) Charges against persons to be tried in the tribunals established hereunder shall originate in the Office of the Chief of Counsel for War Crimes, appointed by the Military Governor pursuant to paragraph 3 of the Executive Order Numbered 9679 of the President of the United States dated 16 January 1946. The Chief of Counsel for War Crimes shall determine the persons to be tried by the tribunals and he or his designated representative shall file the indictments with the Secretary General of the tribunals (see Article XIV, *infra*) and shall conduct the prosecution.

(*b*) The Chief of Counsel for War Crimes, when in his judgment it is advisable, may invite one or more United Nations to designate representatives to participate in the prosecution of any case.

Article IV

In order to ensure fair trial for the defendants, the following procedure shall be followed:

(*a*) A defendant shall be furnished, at a reasonable time before his trial, a copy of the indictment and of all documents lodged with the indictment, translated into a language which he understands. The indictment shall state the charges plainly, concisely and with sufficient particulars to inform defendant of the offenses charged.

(*b*) The trial shall be conducted in, or translated into, a language which the defendant understands.

(*c*) A defendant shall have the right to be represented by counsel of his own selection, provided such counsel shall be a person qualified under existing regulations to conduct cases before the courts of defendant's country, or any other person who may be specially authorized by the tribunal. The tribunal shall appoint qualified counsel to represent a defendant who is not represented by counsel of his own selection.

(*d*) Every defendant shall be entitled to be present at his trial except that a defendant may be proceeded against during temporary absences if in the opinion of the tribunal defendant's interests will not thereby be impaired, and except further as provided in Article VI (*c*). The tribunal may also proceed in the absence of any defendant who has applied for and has been granted permission to be absent.

(*e*) A defendant shall have the right through his counsel to present evidence at the trial in support of his defense, and to cross-examine any witness called by the prosecution.

(*f*) A defendant may apply in writing to the tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located and shall also state the facts to be proved by the witness or the document and the relevancy of such facts to the defense. If the tribunal grants the application, the defendant shall be given such aid in obtaining production of evidence as the tribunal may order.

Article V

The tribunals shall have the power

(*a*) to summon witnesses to the trial, to require their attendance and testimony and to put questions to them;

(*b*) to interrogate any defendant who takes the stand to testify in his own behalf, or who is called to testify regarding another defendant;

(*c*) to require the production of documents and other evidentiary material;

(*d*) to administer oaths;

(*e*) to appoint officers for the carrying out of any task designated by the tribunals including the taking of evidence on commission;

(*f*) to adopt rules of procedure not inconsistent with this Ordinance. Such rules shall be adopted, and from time to time as necessary, revised by the members of the tribunal or by the committee of presiding judges as provided in Article XIII.

Article VI

The tribunals shall

(*a*) confine the trial strictly to an expeditious hearing of the issues raised by the charges;

(*b*) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever;

(*c*) deal summarily with any contumacy, imposing appropriate punishment, including the exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article VII

The tribunals shall not be bound by technical rules of evidence. They shall adopt and apply to the greatest possible extent expeditious and nontechnical procedure, and shall admit any evidence which they deem to have probative value. Without limiting the foregoing general rules, the following shall be

deemed admissible if they appear to the tribunal to contain information of probative value relating to the charges: affidavits, depositions, interrogations, and other statements, diaries, letters, the records, findings, statements and judgments of the military tribunals and the reviewing and confirming authorities of any of the United Nations, and copies of any document or other secondary evidence of the contents of any document, if the original is not readily available or cannot be produced without delay. The tribunal shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the tribunal the ends of justice require.

Article VIII

The tribunals may require that they be informed of the nature of any evidence before it is offered so that they may rule upon the relevance thereof.

Article IX

The tribunals shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations.

Article X

The determinations of the International Military Tribunal in the judgment in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary.

Article XI

The proceedings at the trial shall take the following course:

(*a*) The tribunal shall inquire of each defendant whether he has received and had an opportunity to read the indictment against him and whether he pleads "guilty" or "not guilty."

(*b*) The prosecution may make an opening statement.

(*c*) The prosecution shall produce its evidence subject to the cross-examination of its witnesses.

(*d*) The defense may make an opening statement.

(*e*) The defense shall produce its evidence subject to the cross-examination of its witnesses.

(*f*) Such rebutting evidence as may be held by the tribunal to be material may be produced by either the prosecution or the defense.

(*g*) The defense shall address the court.

(*h*) The prosecution shall address the court.

(*i*) Each defendant may make a statement to the tribunal.

(*j*) The tribunal shall deliver judgment and pronounce sentence.

Article XII

A Central Secretariat to assist the tribunals to be appointed hereunder shall be established as soon as practicable. The main office of the Secretariat

shall be located in Nurnberg. The Secretariat shall consist of a Secretary General and such assistant secretaries, military officers, clerks, interpreters and other personnel as may be necessary.

Article XIII

The Secretary General shall be appointed by the Military Governor and shall organize and direct the work of the Secretariat. He shall be subject to the supervision of the members of the tribunals, except that when at least three tribunals shall be functioning, the presiding judges of the several tribunals may form the supervisory committee.

Article XIV

The Secretariat shall:

(*a*) Be responsible for the administrative and supply needs of the Secretariat and of the several tribunals.

(*b*) Receive all documents addressed to tribunals.

(*c*) Prepare and recommend uniform rules of procedure, not inconsistent with the provisions of this Ordinance.

(*d*) Secure such information for the tribunals as may be needed for the approval or appointment of defense counsel.

(*e*) Serve as liaison between the prosecution and defense counsel.

(*f*) Arrange for aid to be given defendants and the prosecution in obtaining production of witnesses or evidence as authorized by the tribunals.

(*g*) Be responsible for the preparation of the records of the proceedings before the tribunals.

(*h*) Provide the necessary clerical, reporting and interpretative services to the tribunals and its members, and perform such other duties as may be required for the efficient conduct of the proceedings before the tribunals, or as may be requested by any of the tribunals.

Article XV

The judgments of the tribunals as to the guilt or the innocence of any defendant shall give the reasons on which they are based and shall be final and not subject to review. The sentences imposed may be subject to review as provided in Article XVII, *infra.*

Article XVI

The tribunal shall have the right to impose upon the defendant, upon conviction, such punishment as shall be determined by the tribunal to be just, which may consist of one or more of the penalties provided in Article II, Section 3 of Control Council Law No. 10.

Article XVII

(*a*) Except as provided in (*b*) *infra,* the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof.

(*b*) In cases tried before tribunals authorized by Article II (*c*), the sentence shall be reviewed jointly by the zone commanders of the nations involved, who may mitigate, reduce or otherwise alter the sentence by majority vote, but may not increase the severity thereof. If only two nations

are represented, the sentence may be altered only by the consent of both zone commanders.

Article XVIII

No sentence of death shall be carried into execution unless and until confirmed in writing by the Military Governor. In accordance with Article III, Section 5 of Law No. 10, execution of the death sentence may be deferred by not to exceed one month after such confirmation if there is reason to believe that the testimony of the convicted person may be of value in the investigation and trial of other crimes.

Article XIX

Upon the pronouncement of a death sentence by a tribunal established thereunder and pending confirmation thereof, the condemned will be remanded to the prison or place where he was confined and there be segregated from the other inmates, or be transferred to a more appropriate place of confinement.

Article XX

Upon the confirmation of a sentence of death the Military Governor will issue the necessary orders for carrying out the execution.

Article XXI

Where sentence of confinement for a term of years has been imposed the condemned shall be confined in the manner directed by the tribunal imposing sentence. The place of confinement may be changed from time to time by the Military Governor.

Article XXII

Any property declared to be forfeited or the restitution of which is ordered by a tribunal shall be delivered to the Military Governor, for disposal in accordance with Control Council Law No. 10, Article II (3).

Article XXIII

Any of the duties and functions of the Military Governor provided for herein may be delegated to the Deputy Military Governor. Any of the duties and functions of the Zone Commander provided for herein may be exercised by and in the name of the Military Governor and may be delegated to the Deputy Military Governor.

This Ordinance becomes effective 18 October 1946.

BY ORDER OF MILITARY GOVERNMENT.

MILITARY GOVERNMENT—GERMANY
ORDINANCE NO. 11

AMENDING MILITARY GOVERNMENT ORDINANCE NO. 7 OF 18 OCTOBER 1946, ENTITLED "ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS"

Article I

Article V of Ordinance No. 7 is amended by adding thereto a new subdivision to be designated "(*g*)", reading as follows:

"(*g*) The presiding judges, and, when established, the supervisory committee of presiding judges provided in Article XIII shall assign the cases brought by the Chief of Counsel for War Crimes to the various Military Tribunals for trial."

Article II

Ordinance No. 7 is amended by adding thereto a new article following Article V to be designated Article V–B, reading as follows:

"(*a*) A joint session of the Military Tribunals may be called by any of the presiding judges thereof or upon motion, addressed to each of the Tribunals, of the Chief of Counsel for War Crimes or of counsel for any defendant whose interests are affected, to hear argument upon and to review any interlocutory ruling by any of the Military Tribunals on a fundamental or important legal question either substantive or procedural, which ruling is in conflict with or is inconsistent with a prior ruling of another of the Military Tribunals.

"(*b*) A joint session of the Military Tribunals may be called in the same manner as provided in subsection (*a*) of this Article to hear argument upon and to review conflicting or inconsistent final rulings contained in the decisions or judgments of any of the Military Tribunals on a fundamental or important legal question, either substantive or procedural. Any motion with respect to such final ruling shall be filed within ten (10) days following the issuance of decision or judgment.

"(c) Decisions by joint sessions of the Military Tribunals, unless thereafter altered in another joint session, shall be binding upon all the Military Tribunals. In the case of the review of final rulings by joint sessions, the judgments reviewed may be confirmed or remanded for action consistent with the joint decision.

"(*d*) The presence of a majority of the members of each Military Tribunal then constituted is required to constitute a quorum.

"(*e*) The members of the Military Tribunals shall, before any joint session begins, agree among themselves upon the selection from their number of a member to preside over the joint session.

"(*f*) Decisions shall be by majority vote of the members. If the votes of the members are equally divided, the vote of the member presiding over the session shall be decisive."

Article III

Subdivisions (*g*) and (*h*) of Article XI of Ordinance No. 7 are deleted; subdivision (*i*) is relettered "(*h*)"; subdivision (*j*) is relettered "(*i*)"; and a new subdivision, to be designated "(*g*)", is added, reading as follows:

"(*g*) The prosecution and defense shall address the court in such order as the Tribunal may determine."

This Ordinance becomes effective 17 February 1947.

BY ORDER OF THE MILITARY GOVERNMENT.

OFFICIALS OF THE OFFICE OF THE SECRETARY GENERAL

Secretaries General

MR. CHARLES E. SANDS	From 25 October 1946 to 17 November 1946.
MR. GEORGE M. READ	From 18 November 1946 to 19 January 1947.
MR. CHARLES E. SANDS	From 20 January 1947 to 18 April 1947.
COLONEL JOHN E. RAY	From 19 April 1947 to 9 May 1948.
DR. HOWARD H. RUSSELL	From 10 May 1948 to 2 October 1949.

Deputy and Executive Secretaries General

MR. CHARLES E. SANDS	Deputy from 18 November 1946 to 19 January 1947.
JUDGE RICHARD D. DIXON	Acting Deputy from 25 November 1946 to 5 March 1947.
MR. HENRY A. HENDRY	Deputy from 6 March 1947 to 9 May 1947.
MR. HOMER B. MILLARD	Executive Secretary General from 3 March 1947 to 5 October 1947.
LIEUTENANT COLONEL HERBERT N. HOLSTEN	Executive Secretary General from 6 October 1947 to 30 April 1949.

Assistant Secretaries General

[Since many trials were being held simultaneously, an Assistant Secretary General was designated by the Secretary General for each case. Assistant Secretaries General are listed with the members of each tribunal.]

Marshals of Military Tribunals

COLONEL CHARLES W. MAYS	From 4 November 1946 to 5 September 1947.
COLONEL SAMUEL L. METCALFE	From 7 September 1947 to 29 August 1948.
CAPTAIN KENYON S. JENCKES	From 30 August 1948 to 30 April 1949.

Court Archives

MRS. BARBARA S. MANDELLAUB	Chief from 21 February 1947 to 15 November 1949.

Defense Information Center

MR. LAMBERTUS WARTENA	Defense Administrator from 3 March 1947 to 16 September 1947.
LIEUTENANT COLONEL HERBERT N. HOLSTEN	Defense Administrator from 17 September 1947 to 19 October 1947.
MAJOR ROBERT G. SCHAEFER	Defense Administrator from 20 October 1947 to 30 April 1949.

"THE MINISTRIES CASE"

MILITARY TRIBUNAL IV

Case 11

THE UNITED STATES OF AMERICA

—against—

ERNST VON WEIZSAECKER, GUSTAV ADOLF STEENGRACHT VON MOYLAND, WILHELM KEPPLER, ERNST WILHELM BOHLE, ERNST WOERMANN, KARL RITTER, OTTO VON ERDMANNSDORFF, EDMUND VEESENMAYER, HANS HEINRICH LAMMERS, WILHELM STUCKART, RICHARD WALTHER DARRÉ, OTTO MEISSNER, OTTO DIETRICH, GOTTLOB BERGER, WALTER SCHELLENBERG, LUTZ SCHWERIN VON KROSIGK, EMIL PUHL, KARL RASCHE, PAUL KOERNER, PAUL PLEIGER, and HANS KEHRL, *Defendants*

INTRODUCTION

The "Ministries case" was officially designated *United States of America vs. Ernst von Weizsaecker, et al.* (Case 11.) The case quickly became commonly known as the "Ministries case" because most of the 21 defendants were charged with criminal conduct arising principally out of their functions as officials of the Reich government. Some of the defendants, in addition, held important positions in the Nazi Party and its affiliated organizations. The broad scope of the trial is indicated by summary mention of some of the more important positions held by particular defendants.

Three of the defendants were Reich Ministers—the defendant Lammers, Reich Minister and Chief of the Reich Chancellery; the defendant Schwerin von Krosigk, Reich Minister of Finance; and the defendant Darré, Reich Minister of Food and Agriculture. The defendant Meissner was State Minister and Chief of the Presidential Chancellery. In the German Foreign Office, the defendant Weizsaecker was State Secretary (Staatssekretaer) from 1938 to 1943, when he was succeeded by the defendant Steengracht von Moyland. The defendant Keppler was also given the rank of State Secretary in the Foreign Office in connection with his activities in Austria in 1938, and after the German occupation of Austria, he became Reich Plenipotentiary for Austria. The defendant Stuckart was State Secretary first in the Reich Ministry of Science and Education and later in the Reich Ministry of the Interior. In the Ministry for Armament and War Production, the defendant Kehrl was head of the Raw Materials Office. The defendant Puhl was Vice President of the Reich Bank. The defendant Berger was Chief of Prisoner of War Affairs under Himmler from 1944 until the German collapse.

In the Nazi Party and its affiliated organizations, a number of the defendants held various positions in the complicated hierarchy. The defendant Dietrich was Reich Press Chief of the Nazi Party, as well as Reich Press Chief of the Reich government and a State Secretary in the Reich Ministry of Propaganda and Public Enlightenment. The defendant Bohle was chief of the Foreign Organization of the Nazi Party and a Gauleiter of the Nazi Party. After 1937, Bohle also held the position of State Secretary in the German Foreign Office. The defendant Darré was Reich Peasant Leader of the Nazi Party. The defendant Berger was Chief of the SS Main Office, directly subordinate to Reichsfuehrer SS Himmler. In Himmler's Reich Security Main Office (RSHA), the defendant Schellenberg was Chief of the Foreign Intelligence Division. Beginning in 1932, the defendant Keppler was economic adviser to Hitler. In the early years of the Nazi regime, the defendants Kehrl and Pleiger were officials

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in the so-called "Keppler Office." In its judgment the Tribunal found twelve defendants guilty of membership in one or more of the organizations declared criminal by the International Military Tribunal: eleven in the SS; one in the SD (Schellenberg); and four in the Leadership Corps of the Nazi Party (Bohle, Darré, Dietrich, and Keppler).

A number of the defendants held leading positions in special government agencies or institutions established during the Hitler regime. The defendant Koerner was Goering's permanent deputy for the execution of the Four Year Plan, a member of the Central Planning Board, and in the Prussian State Ministry he held the position of State Secretary. The defendant Pleiger was chairman of the Reich Association Coal and chairman of the Vorstand (managing board) of the Reich-owned Hermann Goering Works. The defendant Kehrl was head of the "Planning Office" of the Central Planning Board.

The defendants were charged under an indictment containing eight counts, including 75 paragraphs of specifications, although not all defendants were charged under all counts (see section I, hereinafter). The judgment of the Tribunal found some of the defendants guilty under six counts of the indictment (see section XV, volume XIV). Count four was dismissed as to all defendants charged during the prosecution's case in chief (see section VIII, volume XIII). Count two was dismissed as to all defendants in the judgment of the Tribunal. Judge Powers dissented from the judgment of the Tribunal in finding some of the defendants guilty under counts one, three, five and six. Upon motions alleging errors of fact and law in the Tribunal's judgment, the Tribunal set aside its conviction of two defendants under count one and of one defendant under count three (see section XVIII, volume XIV).

The Ministries case was tried at the Palace of Justice in Nuernberg before Military Tribunal IV A (often referred to as Tribunal IV after the original Tribunal IV completed the trial of the Flick case). The Tribunal convened on 168 separate days. Testimony was also taken before three commissioners appointed by the Tribunal. One of the commissioners took testimony in Copenhagen. On another occasion a commission consisting of two members of the Tribunal heard testimony in Vienna. Seventeen months elapsed between indictment and judgment and just over 2 years between indictment and the postjudgment rulings of the Tribunal upon defense motions alleging error in the judgment. The trial, therefore, lasted considerably longer than any of the other Nuernberg trials, not excepting the first trial of Hermann Goering and others before the International Military Tribunal.

The general outline of the progress of the trial is shown by the following schedule:

Original indictment filed	4 November 1947
Amended indictment filed	18 November 1947
Arraignment	20 November 1947
Prosecution opening statement	6 January 1948
Tribunal order dismissing count four	26 March 1948
Opening of the defence case	4 May 1948
Prosecution closing statement	9 November 1948
Defense closing statements	9–18 November 1948
Prosecution rebuttal statement	18 November 1948
Judgment	11–13 April 1949
Dissenting Opinion of Judge Powers	13 April 1949
Sentences	13 April 1949
Orders of the Tribunal on motions alleging errors in judgment	12 December 1949
Revision of sentences by the United States High Commissioner for Germany	31 January 1951

The English transcript of the court proceedings runs to 28,813 pages, inclusive of judgment and sentences, but exclusive of the dissenting opinion, and of the postjudgment orders and memoranda on the defense motions alleging error in the judgment. The prosecution introduced into evidence over 3,200 written exhibits (some of which contained several documents) and the defense over 4,800 written exhibits. The testimony of 339 witnesses was heard by the Tribunal or taken before commissioners appointed by the Tribunal. Of the 21 defendants 19 testified in their own behalf, and each of these defendants was subject to examination on behalf of the other defendants. The defendants Dietrich and von Erdmannsdorff elected not to testify. Approximately three-fifths of the witnesses heard were defense witnesses. Of the prosecution's written exhibits 282 were affidavits, whereas 2,298 of the written exhibits of the defense were affidavits. Most of the cross-examination of affiants concerning their affidavits was conducted before commissioners of the Tribunal. The exhibits offered by both prosecution and defense contained documents, photographs, affidavits, letters, charts, and other written evidence. The prosecution rested its case on 27 March 1948, and the Tribunal was in recess until 3 May 1948 to give the defense additional time to prepare its case.

Concerning the captured official documents introduced in evidence and the nature of the record as a whole, the Tribunal in its judgment stated:

"Hundreds of captured official documents were offered, received and considered, which were unavailable at the trial before the International Military Tribunal (sometimes herein referred to as the IMT), and which were not offered in any of the previous cases before United States Military Tribunals, and the record here presents, more fully and completely than in any other case, the story of the rise of the Nazi regime, its programs and its acts."

Because of space limitations less than one-twentieth of the evidence of record is reproduced in the three volumes of this series devoted to the Ministries trial. This evidence has been grouped for the most part in six sections according to the counts of the indictment. The first of these sections (section VI, Crimes Against Peace) contains evidence principally bearing on the first two counts. Each of five other sections (sections VII, IX, X, XI, and XII, all in volume XIII) contain evidence mainly dealing with a single count. Section VIII, dealing with count four, contains only argumentation concerning the jurisdiction of the Tribunal and the Tribunal's ruling dismissing the count. Since particular items of evidence frequently concerned more than one count, considerable overlapping has been unavoidable, and in some cases an item of evidence reproduced in one section perhaps could as well have been placed in another section. Because of the complexity of the issues and the large number of governmental, Party, and other positions held by the defendants, an early section of this volume (section IV) is devoted to the organization of the government and economic system of the Third Reich; and all of the opening statements of the respective defendants as well as the opening statement for the prosecution have been placed in section V, preceding the sections containing evidence on the individual counts.

The members of the Tribunal, the commissioners of the Tribunal, and prosecution and defense counsel are listed on the ensuing pages. Prosecution counsel were assisted in preparing the case by Walter H. Rapp (Chief of the Evidence Division); Mr. Fred Niebergall (Chief of the Document Branch); Rudolph Auerbach, Jules Beaumont, Elsie Dolling, Wolfgang von Eckhardt, Henry Einstein, Henry Elias, Robert von Engel, Ossip Flechtheim, Marie-Anne Garnier, Friedrich Gaus, Gustava Hanna, Norbert Heilpern, Charles Ippen, Clarissa Kohn, Selinda Kranz, Jane Lester, Myra Letz, Ellen Levy, Margot Lipton, Thomas J. Mays, Werner Meyer, Helmuth von Rabenau, Irene Renteln, Betty Richardson, Mark Schaffer, Susan Schaffer, Helen Shea, Paul Siebenschein, Walter Speyer, Herbert Steinitz, Louise Stubing, Eddie I. Wahler, and Elsa Wolffsohn, research and documentary analysts; and Peter Beauvais, Henry Cohen, Paul H. Katcher,

Sigmund Kaufmann, Herbert Meyer, Eric Ortmann, Rudolph Pinz, Curt Ponger, Fred Rodell, Victor Singer, Otto Verber, and Larry Wolff, interrogators.

Selection and arrangement of the Ministries case material published herein was accomplished principally by Norbert G. Barr, Paul H. Gantt, and Eric Kaufman, working under the general supervision of Drexel A. Sprecher, Deputy Chief of Counsel and Director of Publications, Office U. S. Chief of Counsel for War Crimes. John P. Banach, Catherine Bedford, Gertrude Ferencz, Heinrich Eisold, Helmuth von Rabenau, Helma Schmidt, Rosamunde Schroedel, Maria Schleicher, Enid M. Standring, and Erna E. Uiberall, assisted in selecting, compiling, editing, and indexing the numerous papers.

John H. E. Fried, Special Legal Consultant to the Tribunals, reviewed and approved the selection and arrangement of the material as the designated representative of the Nuernberg Tribunals.

Final compilation and editing of the manuscript for printing was accomplished under the general supervision of Colonel Edward H. Young, JAGC, Chief of the War Crimes Division in the Office of The Judge Advocate General, Department of the Army, with Norma Heacock Sherris and Evelyn A. Goldblatt as editors and Harry A. Jacobs as research analyst.

ORDER CONSTITUTING THE TRIBUNAL

HEADQUARTERS, EUROPEAN COMMAND

GENERAL ORDERS
No. 134

17 December 1947

Pursuant to Military Government Ordinance No. 7

1. Confirming the orders of the Commander in Chief, European Command as of 11 December 1947, pursuant to Military Government Ordinance No. 7, 24 October 1946, entitled "Organization and Powers of Certain Military Tribunals," there is hereby constituted Military Tribunal IV A.

2. The following are designated as members of Military Tribunal IV A:

WILLIAM C. CHRISTIANSON	Presiding Judge
LEON W. POWERS	Judge
ROBERT F. MAGUIRE	Judge

3. The Tribunal shall convene at Nuernberg, Germany, to hear such cases as may be filed by the Chief of Counsel for War Crimes or by his duly designated representative.

4. Upon completion of the case presently pending before Military Tribunal IV, and upon the dissolution of that Tribunal, Military Tribunal IV A shall be known as Military Tribunal IV.

BY COMMAND OF GENERAL CLAY:

C. R. HUEBNER
Lieutenant General, GSC
Chief of Staff

OFFICIAL:
[Signed] G. H. Garde
[Typed] G. H. GARDE
Lieutenant Colonel, AGD
Asst. Adjutant General

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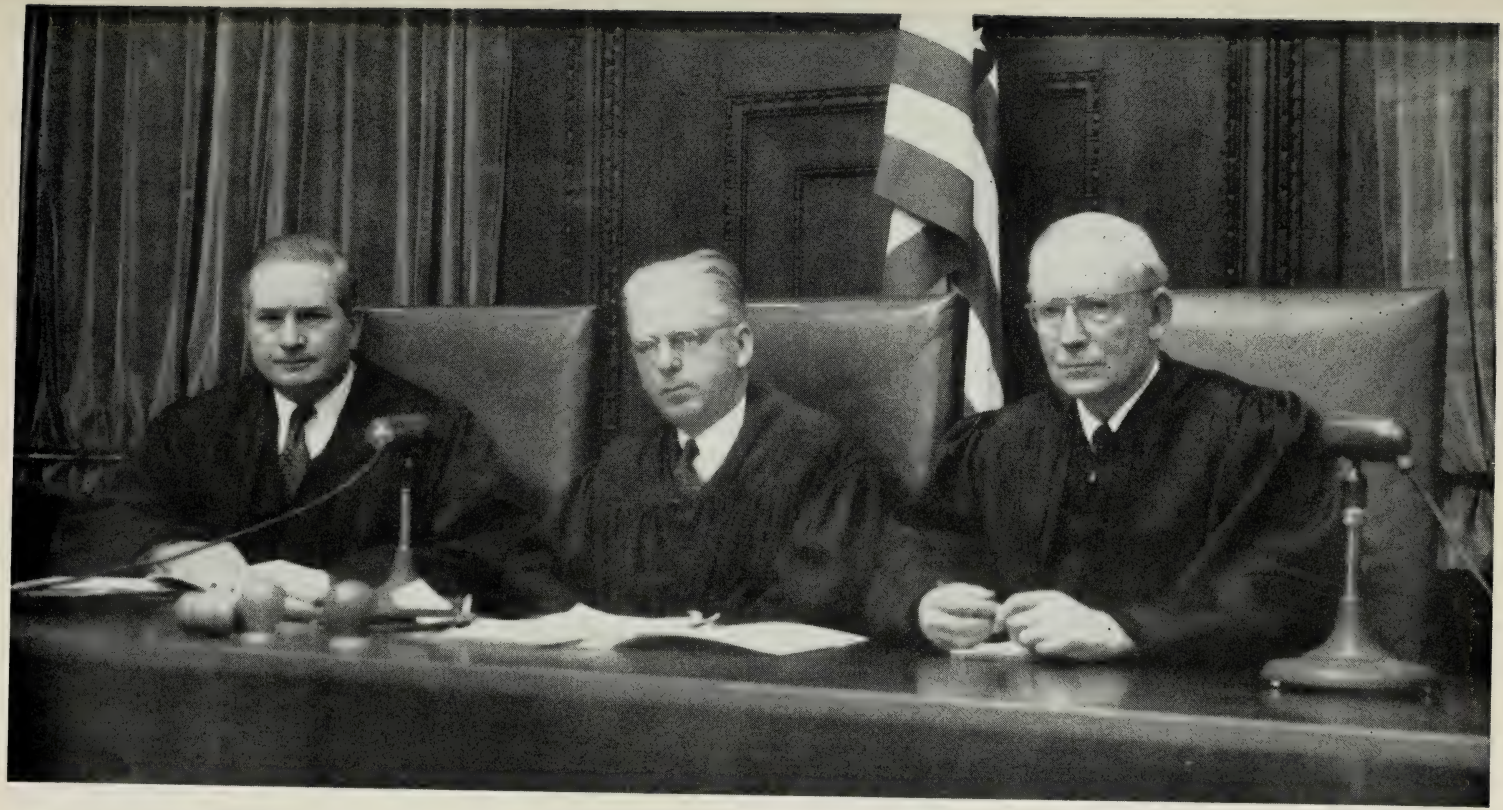
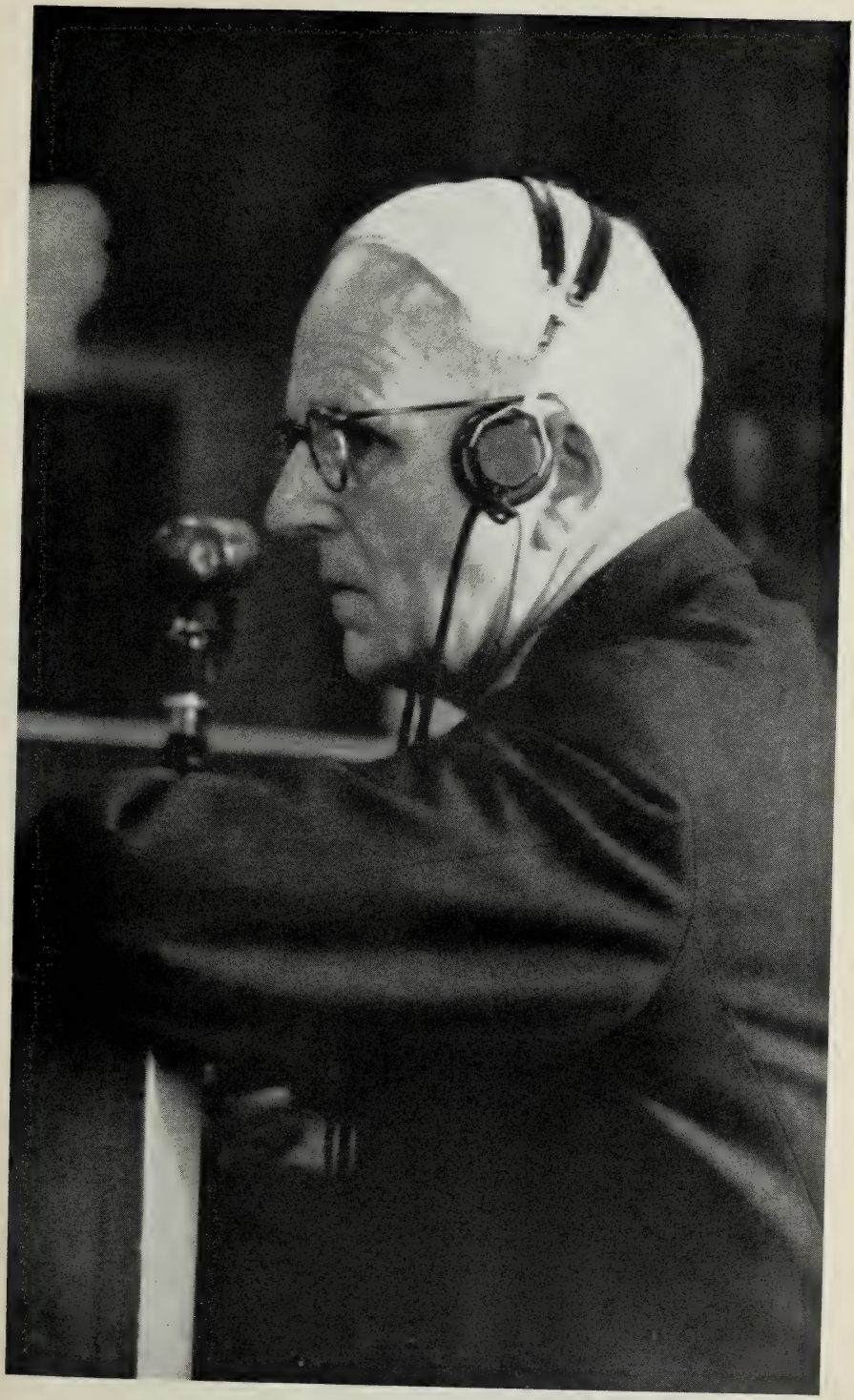


TRIBUNAL IV—CASE ELEVEN

Leon W. Powers; William C. Christianson, Presiding; Robert F. Maguire.

The defendants in the dock. Left to right (front row): Ernst von Weizsaecker, Steengracht von Moyland, Wilhelm Keppler, Ernst Bohle, Ernst Woermann, Karl Ritter, Otto von Erdmannsdorff, Edmund Veesenmayer, Hans Lammers, Wilhelm Stuckart, Richard Darre, (back row) Otto Dietrich, Gottlob Berger, Walter Schellenberg, Schwerin von Krosigk, Emil Puhl, Karl Rasche, Paul Koerner, Paul Pleiger, and Hans Kehrl. Defendant Otto Meissner was absent. Translators are shown at top right behind the glass partition. Defense counsel appear at lower right.



The defendant Ernst von Weizsaecker on the witness stand.

General view of the courtroom in the Palace of Justice, Nuernberg. At upper left are defendants in the dock with translators and court reporters behind the glass partition. Defense counsel are seated in front of the dock. Brigadier General Telford Taylor, Chief of Counsel for War Crimes, stands at the speaker's podium. Court personnel and the Secretary General, Colonel John E. Ray, appear at upper right immediately in front of the Tribunal Members of the prosecution staff are seated in foreground

MEMBERS OF THE TRIBUNAL

JUDGE WILLIAM C. CHRISTIANSON, Presiding Judge.
Formerly Associate Justice of the Supreme Court of the State of Minnesota.

JUDGE ROBERT F. MAGUIRE, Member.
Standing Master in Chancery for the United States District Court of Oregon.

JUDGE LEON W. POWERS, Member.
Judge of the Supreme Court of the State of Iowa.

COMMISSIONERS OF THE TRIBUNAL

JUDGE JOHNSON T. CRAWFORD
Formerly Judge of a District Court of the State of Oklahoma.

MR. PRESTON B. JONES

MR. JOHN J. STEGNER

ASSISTANT SECRETARIES GENERAL

KARL I. DIETZ	From 20 December 1947 to 22 January 1948.
JOHN L. STONE	23 January 1948.
EVERT G. WAY	From 26 January to 2 February 1948.
J. KNIGHT	3, 4, and 11 February 1948.
MAURICE DE VINNA	6 February 1948.
Commission Hearings	From 2 July to 28 July 1948.
J. C. KNAPP	9, 10 February 1948
	From 16 February to 18 November 1948.
HOWARD H. RUSSEL, JR.	12 February 1948.
ELIZABETH DINNING	From 11 April to 14 April 1949.

PROSECUTION COUNSEL*

Chief of Counsel:

Brigadier General TELFORD TAYLOR

Deputy Chief Counsel:

MR. ROBERT M. W. KEMPNER, Director Political-Ministries Division

MR. CHARLES S. LYON, Director Economic-Ministries Division
(20 December 1947—11 April 1948)

MR. MORRIS AMCHAN, Director Economic-Ministries Division
(from 22 September 1948)

Associate Counsel:

MR. ALEXANDER G. HARDY

MR. HILLIARD W. W. CAMING

Special Counsel:

M. CHARLES GERTHOFFER, Liaison Officer of the Republic of France

LT. CMDR. CHARLES A. HORSKY (USCGR-T)

MR. DREXEL A. SPRECHER, Acting Chief of Counsel
(24 September 1948—15 March 1949)

H. RUSSELL THAYER, Director Economic-Ministries Division
(12 April 1948—15 July 1948)

Assistant Counsel:

MR. NORBERT G. BARR
MR. FRANK ESTERKIN
MR. JAMES M. FITZPATRICK
MR. PAUL H. GANTT
MR. RALPH S. GOODMAN
MR. ERIC KAUFMAN
MR. MAXIMILLIAN KOESSLER
MR. ALVIN LANDIS
MR. JOHN LEWIS
MRS. DOROTHEA G. MINSKOFF
MR. WALTER W. O'HAIRE
MR. ARTHUR PETERSEN
MR. JOHN J. POSNER
MR. WALTER J. ROCKLER
MR. HERBERT SCHONFIELD

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* Only those members of the prosecution staff who spoke before the Tribunal or conducted examinations before commissioners of the Tribunal are listed. The list includes several interrogators or research analysts who were not attorneys but who did conduct examinations of witnesses before commissioners of the Tribunal. Other members of the prosecution's legal staff active in the preparation of the case for trial or in the writing of briefs include: Mr. Rawlings Ragland, deputy chief counsel, and Messrs. Arnold Buchtal, Meyer L. Casman, Arthur Fanta, Paul Horecky, Irving Kent, Max Mandellaub, Donald C. Noggle, Walter Speyer, and Joseph H. Stone. Mr. Foster Adams acted as Economic Consultant to the Chief of Counsel and was active in the preparation of the case concerning the defendants Rasche and Puhl.

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ERRATA

Volume XII, Trials of War Criminals before the Nuernberg Military Tribunals

Page 8. PROSECUTION COUNSEL, *Assistant Counsel*, add

MR. OTTO HEILBRUNN

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U. S. Dept. of Documents
October 24, 1952

DEFENSE COUNSEL

Defendants	*Defense Counsel*	*Associate Defense Counsel*
BERGER, GOTTLOB	DR. GEORG FROESCHMANN	DR. KARL PRACHT DR. RUDOLPH MERKEL (from 10 March 1948) DR. WILHELM HUELLER (from 19 July 1948)
BOHLE, ERNST WILHELM	DR. ERNST ACHENBACH (to 17 January 1948) DR. ELISABETH GOMBEL (from 3 February 1948)	DR. ELISABETH GOMBEL (to 17 January 1948) WILHELM SCHMIDT (from 5 February 1948 to 3 November 1948) KLAUS MATHY (from 13 August 1948)
DARRÉ, RICHARD WALTHER	DR. BOLKO VON STEIN (to 26 March 1948) DR. HANS MERKEL (from 26 March 1948)	DR. HANS MERKEL (from 10 February 1948 to 26 March 1948) DR. BOLKO VON STEIN (from 26 March 1948) DR. ADALBERT JOPPICH (from 3 August 1948) DR. KURT MIROW (from 14 April 1948)
DIETRICH, OTTO	DR. FRIEDRICH BERGOLD	OSCAR FICHT GOTTFRIED VOGEL (from 21 April 1948) EDUARD BELZER (from 21 June 1948)
ERDMANNSDORFF, OTTO VON	DR. BERND VORWERK	FRANZ VON PAPEN JOHANNES SCHMIDT (from 17 May 1948)
KEHRL, HANS	DR. HEINRICH GRUBE	RUDOLF MEYER (from 20 January 1948) ALFRED SCHWARZ (from 11 March 1948)
KEPPLER, WILHELM	DR. WERNER SCHUBERT	DR. HEINRICH EISOLD (from 9 January 1948) WOLFGANG THEOBALD (from 16 March 1948)

Defendants	*Defense Counsel*	*Associate Defense Counsel*
KOERNER, PAUL	DR. JUSTUS KOCH	DR. HANS GUENTHER SERAPHIM (from 9 January 1948 to 15 March 1948)
	DR. GERHARD RAUSCHENBACH (from 14 July 1948)	DR. JOACHIM BERGMANN (from 29 January 1948)
		ERNST HESSE (from 15 March 1948)
LAMMERS, HANS HEINRICH	DR. ALFRED SEIDL	DR. WOLFGANG LAUE (from 16 January 1948)
MEISSNER, OTTO	DR. FRITZ SAUTER	HANS TRAPPENTREU (from 30 December 1947 to 20 January 1948)
	DR. ALFRED SEIDL (from 19 January 1949)	DR. ALFONS TEMPLER (from 9 January 1948)
		HANS TRAPPENTREU (from 25 February 1948)
PLEIGER, PAUL	DR. ROBERT SERVATIUS (to 1 March 1949)	DR. GEORG WOLFF
	DR. JUSTUS KOCH (from 1 March 1949)	RUDOLF SCHMIDT (from 15 January 1948 to 9 March 1948)
		KURT MIROW (from 9 March 1948 to 15 March 1948)
		RUDOLF SCHMIDT (from 16 March 1948 to 24 April 1948)
		DR. FERDINAND LEIS (from 26 April 1948)
PUHL, EMIL	DR. GERHARD KLINNERT (to 11 March 1948)	DR. HANS GAWLIK (to 11 March 1948)
	DR. HANS GAWLIK (from 11 March 1948)	HEINRICH KLUG (from 5 March 1948)
		DR. GERHARD KLINNERT (from 11 March 1948)
RASCHE, KARL	DR. EGON KUBUSCHOK	DR. HUBERTUS JANICKI
		FRANZ ZDRALEK (from 26 March 1948)
		ADOLF SCHAEFER (from 14 April 1948)

Defendants	*Defense Counsel*	*Associate Defense Counsel*
RITTER, KARL	HORST PELCKMANN	DR. ERICH SCHMIDT-LEICHNER (to 15 June 1948)
	DR. ERICH SCHMIDT-LEICHNER (from 15 June 1948)	DR. HERMANN MASCHKE (from 20 September 1948)
SCHELLENBERG, WALTER	DR. FRITZ RIEDIGER	DR. KARL JAEGER (from 7 January 1948 to 9 March 1948)
		KURT MINTZEL (from 10 March 1948)
SCHWERIN VON KROSIGK, LUTZ	STEFAN FRITSCH	EDMUND BASMANN (from 30 December 1947 to 30 January 1948)
		PAUL RATZ (from 5 February 1948)
		GEORG MENZEL (from 20 February 1948)
STEENGRACHT VON MOYLAND, GUSTAV ADOLF	DR. CARL HAENSEL	GISELA VON DER TRENCK (from 26 January 1948)
STUCKART, WILHELM	DR. FRITZ SAUTER (to 18 December 1947)	ADOLF KLAS
	DR. ROBERT SERVATIUS (from 30 December 1947 to 30 December 1948)	LUDWIG LOSACKER (from 9 March 1948)
	DR. HANS VON ZWEHL (from 4 January 1948)	KARL STORZ (from 14 April 1948)
	CURT VON STACKELBERG (from 8 March 1948)	HERMANN ORTH (from 15 April 1948)
VEESENMAYER, EDMUND	DR. KARL DOETZER	FRITZ WECKER (to 10 March 1948)
		GERDA DOETZER (from 10 March 1948)
		HERBERT FREDERSDORF-THIELE (from 14 April 1948)

Defendants	*Defense Counsel*	*Associate Defense Counsel*
WEIZSAECKER, ERNST VON	HELLMUT BECKER	SIGISMUND VON BRAUN (from 15 December 1947 to 31 July 1948)
	WARREN E. MAGEE[1]	RICHARD VON WEIZSAECKER (from 29 January 1948)
		DR. KARL ARNDT (from 8 July 1948)
WOERMANN, ERNST[2]	DR. ALFRED SCHILF	DR. GABRIELE LEHMANN (from 30 December 1947)
	DR. GUENTHER LUMMERT (from 14 July 1948 to 5 November 1948)	DR. MARTHA UNGER[2] (from 14 April 1948)
		DR. GUENTHER LUMMERT (from 31 May 1948 to 14 July 1948 and from 1 December 1948)
		DR. VICTOR VON DER LIPPE (from 28 July 1948)
Special Counsel for: BOHLE; VON ERDMANNSDORFF; RITTER; STEENGRACHT VON MOYLAND; VEESENMAYER; VON WEIZSAECKER; WOERMANN	DR. WERNER VON SCHMIEDEN (from 25 February 1948)	KLAUS MATHY (from 2 March 1948)

[1] Mr. Magee was an American attorney. All other defense counsel were German attorneys.

[2] During the course of the trial Dr. Unger married the defendant Ernst Woermann. By order of 9 December 1948, the Tribunal excused the defendant Woermann "from attendance at the sessions of Tribunal IV, from 20 December [1948] to and including 2 January 1949, in order that he may visit Heidelberg for the purpose of being married."

I. INDICTMENT*

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INTRODUCTION

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein committed crimes against peace, war crimes and crimes against humanity, and participated in a common plan and conspiracy to commit crimes against peace, all as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included planning, preparing, initiating, and waging of wars of aggression and invasions of other countries, as a result of which incalculable destruction was wrought throughout the world, millions of people were killed, and many millions more suffered and are still suffering; deportation to slave labor of members of the civilian population of the invaded countries and the enslavement, mistreatment, torture and murder of millions of persons, including German nationals as well as foreign nationals; plunder and spoliation of public and private property in the invaded countries pursuant to deliberate plans and policies intended not only to strengthen Germany in launching its invasions and waging its aggressive wars, but also to secure the permanent domination by Germany of the continent of Europe; and other grave crimes set forth in this indictment.

* This indictment, dated 15 November 1947, was sometimes referred to as the "amended indictment" since the initial indictment in the Ministries Case had been filed on 1 November 1947. When the indictment of 15 November 1947 was filed, the prosecution filed a written statement that this amended indictment superseded and replaced the indictment filed on 1 November 1947. See remarks of General Taylor on this question during the arraignment (section II, below).

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—

ERNST VON WEIZSAECKER—State Secretary (Staatssekretaer)[1] of the German Foreign Office (Auswaertiges Amt) from 1938 to 1943; Ministerial Director (Ministerialdirektor) and Chief of the Political Division of the German Foreign Office (Leiter der Politischen Abteilung des Auswaertigen Amts) from 1936 to 1938; German Ambassador (Deutscher Botschafter) to the Vatican from 1943 to 1945; Brigadier General (Brigadefuehrer) of the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS); member of the Nationalsozialistische Deutsche Arbeiterpartei (commonly known as the NSDAP).

GUSTAV ADOLF STEENGRACHT VON MOYLAND—State Secretary (Staatssekretaer) of the German Foreign Office (Auswaertiges Amt) from 1943 to 1945; member of the German Foreign Minister's personal staff from 1940 to 1943; Deputy Chief Adjutant (Stellvertretender Chefadjutant) of the German Foreign Minister and Minister First Class (Gesandter Erster Klasse)[2] from 1941 to 1943; Brigadier General (Brigadefuehrer) of the Sturmabteilungen der NSDAP (commonly known as the SA); member of the NSDAP.

WILHELM KEPPLER—State Secretary for Special Assignments (Staatssekretaer zur besonderen Verwendung) in the German Foreign Office (Auswaertiges Amt) from 1938 to 1945; economic adviser (Wirtschaftsberater) to Adolf Hitler from 1932 to 1938; special German representative for Austrian affairs (Deutscher Sondervertreter fuer oesterreichische Angelegenheiten), 1938; Reich Commissioner (Reichskommissar) for Austria, 1938; special German representative for Slovakian affairs (Deutscher Sondervertreter fuer slowakische Angelegenheiten), 1939; special commissioner (Sonderbeauftragter) for German war materials, 1934; general expert for German raw materials in the Four Year Plan (Sachverstaendiger fuer alle Fragen der Deutschen Rohstoffversorgung im Rahmen des Vierjahresplanes), 1936; Chairman, Vice-Chairman, and member of the Aufsichtsrat of industrial and other enterprises owned by or connected with the German Reich, including the Kontinentale Oel A.G., Berlin, Deutsche Umsiedlungs-Treuhandgesellschaft, and Deutsche Revisions- und Treuhand Ak-

[1] A "Staatssekretaer" is approximately the equivalent of an Under Secretary in one of the executive departments of the Federal Government of the United States of America. During the trial "Staatssekretaer" was translated either as State Secretary, as here, or as "Under Secretary."

[2] For further details concerning equivalent ranks, see Basic Information, section IV B, below, and table of comparative ranks in appendix A.

tiengesellschaft, Berlin; member of the Reichstag; Lieutenant General (Obergruppenfuehrer) of the SS; a founder and member of the "Circle of Friends" of Himmler; member of the Leadership Corps and holder of the Golden Party Badge of the NSDAP.

ERNST WILHELM BOHLE—Chief of the Foreign Organization (Auslandsorganisation) of the NSDAP (commonly known as AO) from 1933 to 1945; State Secretary and Chief of the Foreign Organization in the German Foreign Office (Staatssekretaer und Chef der Auslandsorganisation im Auswaertigen Amt) from 1937 to 1941; member of the Reichstag; Lieutenant General (Obergruppenfuehrer) of the SS; Gau Leader (Gauleiter) and holder of the Golden Party Badge of the NSDAP.

ERNST WOERMANN—Ministerial Director and Chief of the Political Division of the German Foreign Office (Ministerialdirektor und Leiter der Politischen Abteilung des Auswaertigen Amts) with the rank of Under State Secretary (Unterstaatssekretaer) from 1938 to 1943; German Ambassador in Nanking, China from 1943 to 1945; Senior Counsellor of Legation (Vortragender Legationsrat) and Chief of the International Law Section in the Legal Division of the German Foreign Office (Leiter des Voelkerrechts-Referats der Rechtsabteilung des Deutschen Auswaertigen Amts) from 1932 to 1935; Chief of the European Section (Leiter des Europa-Referats) of the Political Division and Minister First Class (Gesandter Erster Klasse) of the German Foreign Office in 1936; Counsellor of Embassy (Botschaftsrat) at the German Embassy, London, from 1936 to 1938; Senior Colonel (Oberfuehrer) of the SS; member of the NSDAP.

KARL RITTER—Ambassador for Special Assignments (Botschafter zur besonderen Verwendung) in the German Foreign Office from 1939 to 1945; Liaison Officer (Verbindungsmann) between the German Foreign Minister and the Chief of the High Command of the German Armed Forces (OKW); German Ambassador (Deutscher Botschafter) to Brazil from 1937 to 1938; member of the NSDAP.

OTTO VON ERDMANNSDORFF—Ministerial Dirigent (Ministerialdirigent) and Deputy to the Chief (Stellvertretender Leiter) of the Political Division of the German Foreign Office from 1941 to 1943 [1945]; German Minister (Deutscher Gesandter) to Hungary from 1937 to 1941; member of the NSDAP.

EDMUND VEESENMAYER—German Minister and Plenipotentiary of the Reich (Bevollmaechtigter des Reichs) in Hungary from 1944 to 1945; attached for special assignments to the Ger-

man Foreign Office from 1939 to 1944; Brigadier General (Brigadefuehrer) of the SS; member of the NSDAP.

HANS HEINRICH LAMMERS—Reich Minister and Chief of the Reich Chancellery (Reichsminister und Chef der Reichskanzlei) from 1937 to 1945; member of the Reich Cabinet from 1937 to 1945; State Secretary (Staatssekretaer) in the Reich Chancellery in 1933; State Secretary and Chief of the Reich Chancellery (Staatssekretaer und Chef der Reichskanzlei) from 1934 to 1937; member and executive secretary of the Secret Cabinet Council (Geschaeftsfuehrendes Mitglied des Geheimen Kabinettsrates); executive member of Ministerial Council for the Defense of the Reich (Geschaeftsfuehrendes Mitglied des Ministerrats fuer die Reichsverteidigung); Lieutenant General (Obergruppenfuehrer) of the SS; member and holder of the Golden Party Badge of the NSDAP.

WILHELM STUCKART—State Secretary (Staatssekretaer) in the Reich Ministry of the Interior (Reichsministerium des Innern) from 1935 to 1945; Chief of the Central Bureau in the Reich Ministry of the Interior for the Incorporation of Austria (Leiter der Zentralstelle im Reichsministerium des Innern zur Durchfuehrung der Wiedervereinigung Oesterreichs mit dem Deutschen Reich), 1938, for the incorporation of the Sudeten Territory (fuer die Ueberleitung der Sudetendeutschen Gebiete), 1938, for the Protectorate of Bohemia and Moravia (fuer das Protektorat Boehmen und Maehren), 1939, for Alsace, Lorraine, and Luxembourg (fuer Elsass, Lothringen und Luxemburg), 1940, for Norway (fuer Norwegen), 1941, and for the occupied southeastern territories (fuer die besetzten Suedost-Gebiete), 1941; member of the Ministerial Council for the Defense of the Reich (Ministerrat fuer die Reichsverteidigung), Staff Leader (Stabsleiter) of the Plenipotentiary General for the Administration of the Reich (Generalbevollmaechtigter fuer die Reichsverwaltung), 1939; member of General Council for the Four Year Plan (Generalrat fuer den Vierjahresplan); appointed Reich Minister of the Interior (Reichsminister des Innern), May 1945; Lieutenant General (Obergruppenfuehrer) of the SS; member and holder of the Golden Party Badge of the NSDAP.

RICHARD WALTHER DARRÉ—Reich Minister for Food and Agriculture (Reichsminister fuer Ernaehrung und Landwirtschaft) from 1933 to 1945; Reich Peasant Leader (Reichsbauernfuehrer) from 1933 to 1945; Head of the Reich Food Estate (Reichsnaehrstand) from 1934 to 1945; Reich Leader of the Reich Office for Agrarian Policies (Reichsleiter des Reichsamtes fuer Agrarpolitik) in the NSDAP from 1933 to

1942; Chief of the Race and Settlement Main Office (Leiter des Rasse und Siedlungshauptamts) of the SS from 1931 to 1938; Prussian Minister of Agriculture (Preussischer Landwirtschaftsminister) from 1933 to 1942; member of the Reichstag from 1932 to 1945; member of the Prussian State Council (Preussischer Staatsrat) from 1933 to 1945; President of the Supreme Hereditary Farm Court (Vorsitzender des Reichserbhofgerichtes) from 1933 to 1942; Lieutenant General (Obergruppenfuehrer) of the SS; Reich Leader (Reichsleiter) and holder of the Golden Party Badge of the NSDAP.

OTTO MEISSNER—Chief of the Presidential Chancellery (Chef der Praesidialkanzlei) from 1934 to 1945; State Minister with the rank of Reich Minister (Staatsminister mit dem Rang eines Reichsministers) without portfolio, from 1937 to 1945; member and holder of the Golden Party Badge of the NSDAP.

OTTO DIETRICH—State Secretary in the Reich Ministry of Public Enlightenment and Propaganda (Staatssekretaer im Reichsministerium fuer Volksaufklaerung und Propaganda) from 1937 to 1945; Press Chief of the Reich government (Pressechef der Reichsregierung) from 1937 to 1945; Reich Press Chief of the NSDAP (Reichspressechef der NSDAP) from 1932 to 1945; Chief of the Reich Press Office of the NSDAP (Leiter der Pressestelle bei der Reichsleitung der NSDAP) from 1934 to 1945; Hitler's press consultant and member of Hitler's personal staff (Pressenachrichtenreferent und Angehoeriger des persoenlichen Stabes Hitlers) from 1933 to 1945; Chairman of the Reich League of the German Press (Reichsverband der Deutschen Presse) from 1933 to 1934; Vice President of the Reich Press Chamber (Reichspressekammer) from 1934 to 1945; member of the Reichstag from 1936 to 1945; member of the Reich Culture Senate (Reichskultursenat) from 1934 to 1945; Lieutenant General (Obergruppenfuehrer) of the SS; Reichsleiter and holder of the Golden Party Badge of the NSDAP.

GOTTLOB BERGER—Lieutenant General (Obergruppenfuehrer) of the SS and Lieutenant General (General) in the Waffen SS; Chief of the SS Main Office (SS Hauptamt) from 1940 to 1945; Liaison Officer (Verbindungsoffizier) between the Reichsfuehrer SS and the Reich Minister for the Occupied Eastern Territories (Reichsminister fuer die besetzten Ostgebiete) from 1941 to 1945; Chief of the Political Directing Staff (Chef des politischen Fuehrungsstabs) of the Reich Ministry for the Occupied Eastern Territories (Reichsministerium fuer die besetzten Ostgebiete) from 1943 to 1945; Supreme Military Commander (Militaerischer Oberbefehlshaber) in Slovakia in

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1944; Chief of Postal Censorship of the German Postal Service (Postueberwachungsstellen der Deutschen Reichspost) from 1942 to 1945; Chief of Prisoner of War Affairs from 1944 to 1945; member of the Reichstag; member and holder of the Golden Party Badge of the NSDAP.

WALTER SCHELLENBERG—Brigadier General (Brigadefuehrer) of the SS and Brigadier General (Generalmajor) in the Waffen SS and Police; Chief of the combined civil and military intelligence service of the RSHA [Reichssicherheitshauptamt—Reich Security Main Office] from 1944 to 1945; Chief of the Foreign Intelligence Division (office VI) of the RSHA from 1941 to 1944; Office Chief of Office IV E of the RSHA from 1939 to 1941; Chief (Amtschef) of the Sicherheitsdienst des Reichsfuehrers SS (commonly known as the SD); member of the NSDAP.

LUTZ SCHWERIN VON KROSIGK—Reich Minister of Finance (Reichsminister der Finanzen) from 1932 to 1945; appointed Reich Minister for Foreign Affairs (Reichsminister des Auswaertigen) in May 1945; member and holder of the Golden Party Badge of the NSDAP.

EMIL PUHL—Member of the Board of Directors of the Reich Bank (Reichsbankdirektorium) from 1935 to 1945; Vice President of the Reich Bank from 1939 to 1945; Chairman of the Verwaltungsrat of the Reichskreditkassen from 1935 to 1945; member of the Verwaltungsrat of the Verrechnungskasse from 1935 to 1939; member of the Aufsichtsrat of the Deutsche Golddiskontbank from 1935 to 1945; member of the NSDAP.

KARL RASCHE—Member, later speaker, of the Vorstand of the Dresdner Bank from 1935 to 1945; Chairman of the Verwaltungsrat of the Boehmische Escompte Bank, Prague (commonly known as the BEB) from 1939 to 1945; Chairman of the Verwaltungsrat of the Poldihuette A.G., Kladno-Prague, from 1939 to 1942; member of the Aufsichtsrat of the Laenderbank, Vienna, from 1939 to 1945, of the Sudetenlaendische Bergbau A.G., Brno, from 1939 to 1945, of the Kontinentale Oel A.G., from 1940 to 1945; member of the Verwaltungsrat of the Bruenner Waffenwerke A.G., Brno, from 1939 to 1945, and of the A.G. vormals Skoda Werke, Prague, from 1939 to 1945; member of the Beirat of the Witkowitzer Bergbau und Eisenhuetten Gewerkschaft from 1940 to 1945; and member of the supervisory boards of other industrial firms and enterprises; Lieutenant Colonel (Obersturmbannfuehrer) of the SS; member of the "Circle of Friends" of Himmler; member of the NSDAP.

PAUL KOERNER—Permanent Deputy of Goering as Plenipo-

tentiary of the Four Year Plan (Bevollmaechtigter fuer den Vierjahresplan) and Chief of the Office of the Four Year Plan from 1936 to 1945; Chairman of the General Council (Generalrat) for the Four Year Plan from 1939 to 1942; member of the Central Planning Board (Zentrale Planung) from 1942 to 1945; State Secretary to the Plenipotentiary for the Four Year Plan from 1936 to 1945 and of the Prussian State Ministry from 1933 to 1945 (Staatssekretaer des Bevollmaechtigten fuer den Vierjahresplan und Preussischen Staatsministeriums); Deputy Head of the Economic Leadership Staff, East (Wirtschaftsfuehrungsstab Ost) from 1941 to 1945; Chairman of the Verwaltungsrat of the Berg- und Huettenwerke Ost GmbH (commonly abbreviated BHO) from 1941 to 1943; Chairman of the Aufsichtsrat of the Reichswerke A.G. "Hermann Goering" from 1937 to 1942; Chairman of the Aufsichtsrat of the Reichswerke A.G. fuer Erzbergbau und Eisenhuetten "Hermann Goering" from 1937 to 1942; Chairman of the Aufsichtsrat of the Reichswerke A.G. fuer Berg- und Huettenbetriebe "Hermann Goering" from 1940 to 1942; and member of the supervisory boards of other industrial firms and enterprises; member of the Reichstag in 1933 and from 1936 to 1945; member of the Prussian State Council (Preussischer Staatsrat) from 1938 to 1945; Lieutenant General (Obergruppenfuehrer) of the SS; member and holder of the Golden Party Badge of the NSDAP.

Paul Pleiger—Chairman of the Reich Association Coal (Reichsvereinigung Kohle) from 1941 to 1945; Reich Commissioner (Reichsbeauftragter) for Coal in the occupied, annexed, and incorporated territories from 1942 to 1945; Manager from 1941 to 1943, and thereafter until 1945, Chairman of the Verwaltungsrat of the Berg- und Huettenwerke Ost GmbH (BHO); active head and dominating influence from 1937 to 1945 in the large group of industrial enterprises including coal and iron mines, steel producing and finishing plants and armament factories, sometimes collectively referred to herein as the "Hermann Goering Works"; Chairman of the Vorstand of the Reichswerke A.G. fuer Erzbergbau und Eisenhuetten "Hermann Goering", Berlin, from 1938 to 1945, and also Chairman of the same enterprise from 1942 to 1945; Chairman of the Vorstand of the Reichswerke A.G. fuer Berg- und Huettenbetriebe "Hermann Goering" from 1941 to 1945, and Chairman of the Aufsichtsrat of the same enterprise from 1942 to 1945; member of the Vorstand of the A.G. Reichswerke "Hermann Goering", Berlin, from 1939 to 1940; member of the Aufsichtsrat and Vorstand of other industrial firms and enter-

prises; member of the Prussian State Council (Preussischer Staatsrat) from 1943 to 1945; member of the Armament Council; Gau Economic Adviser for Gau Westfalen-Sued; Military Economy Leader (Wehrwirtschaftsfuehrer); member and holder of the Golden Party Badge of the NSDAP.

HANS KEHRL—Chief of the Planning Office (Planungsamt) of the Central Planning Board (Zentrale Planung) from 1943 to 1945; Chief of the Planning Office of the Reich Ministry for Armament and War Production (Reichsministerium fuer Ruestung und Kriegsproduktion) from 1943 to 1945; Chief of the Office of Raw Materials (Rohstoffamt) in the Reich Ministry of Armament and War Production from 1943 to 1945; Consultant for Special Questions in the Economics Ministry from 1938 to 1942; Chief of the Textile Division of the Economics Ministry from 1938 to 1942; Chief of Section IV/2 in Office for German Raw Materials and Synthetics of the Four Year Plan (Amt fuer Deutsche Roh- und Werkstoffe innerhalb des Vierjahresplanes) from 1936 to 1938, member of the Beirat of the Deutsche Umsiedlungs-Treuhandgesellschaft from 1940 to 1943; Chairman of the Verwaltungsrat of the Ostfaser GmbH from 1941 to 1945; member of the Aufsichtsrat of numerous corporations including: Reichswerke A.G. "Hermann Goering" from 1940 to 1945, Sudetenlaendische Bergbau A.G. from 1940 to 1945, and Sudetenlaendische Treibstoff A.G. from 1940 to 1945; President of the Chamber of Industry and Commerce of Niederlausitz from 1934 to 1942; member of the "Circle of Friends" of Himmler from 1942 to 1945; Brigadier General (Brigadefuehrer) of the SS; Gau Economic Adviser of the NSDAP (Gauwirtschaftsberater) for the Gau Brandenburg from 1933 to 1938; Military Economy Leader (Wehrwirtschaftsfuehrer); member of the NSDAP.

COUNT ONE—PLANNING, PREPARATION, INITIATION, AND WAGING OF WARS OF AGGRESSION AND INVASIONS OF OTHER COUNTRIES

Statement of the Offense

1. The defendants von Weizsaecker, Keppler, Bohle, Woermann, Ritter, von Erdmannsdorff, Veesenmayer, Lammers, Stuckart, Darré, Meissner, Dietrich, Berger, Schellenberg, Schwerin von Krosigk, Koerner, and Pleiger, with divers other persons, during a period of years preceding 8 May 1945, committed crimes against peace as defined in Article II of Control Council Law No. 10, in that they participated in the initiation of invasions of other countries and wars of aggression in viola-

tion of international laws and treaties, including but not limited to planning, preparation, initiation, and waging of wars of aggression, and wars in violation of international treaties, agreements, and assurances. The defendants held high political, military, and civil positions and high positions in the financial, industrial, and economic life of Germany and committed crimes against peace in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of crimes against peace.

2. The invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; the United Kingdom and France, 3 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the Union of Soviet Socialist Republics, 22 June 1941; and the United States of America, 11 December 1941.

3. In these invasions and wars, many millions of people were murdered, tortured, starved, enslaved, and robbed; countless numbers became diseased; millions of homes were left in ruins; tremendous industrial capacity necessary to maintain the standard of living of peoples all over the world was destroyed; agricultural land capable of feeding millions of people was laid in waste; and a large part of the world was left in political and economic chaos. The lives and happiness of all peoples of the world were adversely affected as the result of these invasions and wars of aggression.

4. In 1921 Adolf Hitler became the supreme leader or Fuehrer of the National Socialist German Workers Party, also known as the Nazi Party. The main points of the Nazi Party program, which remained unaltered until the Party's dissolution in 1945, were to abrogate and overthrow the Treaties of Versailles and Saint Germain, and reconstitute the Wehrmacht; to acquire territories lost by Germany as the result of World War I; to acquire all other territories in Europe assertedly occupied by "racial Germans"; and to acquire such other territories in the world as might be "needed" by the Germans for "Lebensraum." The Nazis proclaimed that persons of "German blood" were a "master race" and were entitled to subjugate, dominate, and exterminate other "races" and peoples, and that war was a noble and necessary German activity. The Nazis proposed to achieve their ends by any means deemed opportune, including resort to force and aggressive war. The policies and program of the Nazi Party

were continually and publicly reiterated and were matters of common knowledge.

5. On 30 January 1933, Hitler was appointed Chancellor of the Reich by President von Hindenburg. The defendants Meissner, Lammers, Keppler, and Dietrich were active participants in Hitler's seizure of power, in that they marshalled the financial, political, psychological, and propaganda support necessary for its success. On the day of his appointment as Chancellor, Hitler held his first Cabinet meeting, at which the defendant Schwerin von Krosigk was present. On 27 February 1933, the Reichstag building in Berlin was set on fire. This was used by Hitler and his Cabinet members as a pretext for the immediate issuance of a decree suspending the constitutional guaranties.

6. The NSDAP thereafter proceeded to extend its dominion over every phase of German life. Other political parties were persecuted, many of their members were arrested and thrown into concentration camps, and eventually all other parties were outlawed by the law of 14 July 1933, which declared the NSDAP to be the only legal party in Germany. The defendants Lammers, Meissner, and Dietrich cloaked these activities with a semblance of legality by spurious procedural techniques, and the property and assets of the dissolved parties were confiscated and the proceeds were seized by the defendant Schwerin von Krosigk on behalf of the Reich Treasury. In order to place complete and centralized control of the machinery of the German Government in the hands of the leaders of the Third Reich, a series of laws and decrees were passed abolishing representative assemblies and autonomous regional and local governments throughout Germany. These administrative measures were coordinated by the defendant Lammers, and the defendant Dietrich directed and controlled the use of press and propaganda organs to crush the development of any opposing political opinion. The government then proceeded to secure control of the civil service, the judiciary, and the educational system, by the persecution and dismissal of civil servants, judges, and educators for political or racial reasons. The defendant Lammers coordinated these measures administratively; the necessary fiscal regulations to effect this reorganization were provided by the defendant Schwerin von Krosigk; and the defendant Stuckart participated in the dismissal of politically and racially "undesirable" officials in the universities and schools throughout Germany. The defendant Meissner participated in the granting of pardons to criminal members of the Party who had been sentenced for proved offenses by judges not yet controlled or purged by the Party. The defendant Dietrich issued through NSDAP press channels propaganda in

support of these tyrannical measures; the defendant Keppler participated in the formulation of expropriation measures directed against persons of Jewish extraction and others; and the defendant Schwerin von Krosigk accepted into the Reich Treasury financial gains which accrued to the new government from these expropriations. The defendant Darré developed and disseminated Nazi racial doctrines, and effected the "nazification" of German agriculture and husbandry and the elimination of political, racial, and religious "undesirables" from the agricultural economy.

7. During a period of years prior to May 1945, the Third Reich engaged in a ruthless program of aggression and conquest which came to involve almost the entire civilized world and resulted in the initiation and waging, by Germany, of wars of aggression against other countries on a vast scale. The program, which envisaged Nazi domination of all of Europe and later of the entire world, was carefully planned in advance of its actual execution through diplomatic, political, financial, economic, agricultural, propaganda, administrative, and military preparations; the initial military successes evidenced the effectiveness of these preparations. Pursuant to the general program of aggression, diplomatic offensives were synchronized with the total mobilization of all the resources of the German Reich for war. The economic and agricultural life of Germany was reorganized for military purposes; financial preparations were made; and the German armed forces were raised to formidable strength. Propaganda campaigns were launched to incite the German people to support the program of aggression, and the activities of the supreme Reich authorities were coordinated to achieve the full mobilization required by the Nazi concepts of total warfare. The conquest of each of the countries invaded was foreshadowed by a series of political and diplomatic moves whereby, in disregard of treaties, assurances and agreements, fifth column activities were fomented, prominent individuals kidnaped, pretexts for aggression fabricated, propaganda campaigns initiated, potential allies secured, and the political isolation of the victim effected. After these invasions, previously formulated measures were put into effect to incorporate certain of the conquered territories into the German Reich and to complete the subjugation of countries belligerently occupied. Legislation was introduced extending German law and German administration to these territories, and their economies were harnessed to the German war machine to further Germany's ability to wage its wars of aggression.

8. The defendants von Weizsaecker, Woermann, Keppler, Ritter, von Erdmannsdorff, and Veesenmayer, as high officials of the

German Foreign Office, played dominant roles in the diplomatic plans and preparations for invasions and wars of aggression, and later participated in the diplomatic phases of the waging of these wars. The defendant Lammers, as the *de facto* Chancellor of Hitler, coordinated at the highest level the planning and preparation required for the total mobilization of the German Reich, and as Hitler's chief legislative agent, signed the most important decrees for the planning, preparation, initiation, and waging of wars of aggression. The defendant Stuckart, as one of the chief Nazi administrative and managerial specialists, had jurisdiction over the administrative mobilization of the German Reich, and with the defendant Lammers, participated in the incorporation of conquered territories into the German Reich and in the administration of the incorporated and occupied territories. The defendant Darré mobilized the German agricultural economy for aggression by measures to insure maximum self-sufficiency in foodstuffs for the German armed forces and the civilian population, and to enable the German Reich to initiate and wage its wars of aggression, and later he participated in the absorption of the agricultural economies of the territories incorporated into "Greater Germany" and in the seizure and distribution of agricultural products looted from the occupied territories. The defendant Meissner staged conferences and meetings at which the leaders of the countries to be victimized were threatened. The defendant Dietrich created, formulated and controlled press and propaganda policies of the NSDAP and of the German Government, both in furtherance of plans and preparations for aggression, and in the propaganda phases of the waging of these wars. The defendant Bohle, as head of the Foreign Organization of the NSDAP, participated in economic preparations for war, and in Nazi infiltration and fifth column activities through propaganda, espionage, terrorism, and financial contributions to "Quisling" groups whereby the governments of the prospective victims were undermined in accordance with the plans of aggression. The defendant Berger participated in the recruitment of SS personnel and the fomentation of fifth column activities in countries that were subsequently invaded by Germany, and later participated in the establishment of SS and political puppet organizations in the occupied countries in furtherance of the subjugation of these territories. The defendant Schellenberg participated in the fabrication of pretexts for aggression and was connected with and participated in SS and SD plans and preparations for aggressive war. The defendant Schwerin von Krosigk directed the financial mobilization of the German Reich for aggression by fiscal measures which insured the financing of Germany's rearma-

ment program and other civil and military expenses incidental to preparations for aggressive war, and later was responsible for the incorporation of the financial institutions and the seizure of the financial resources of territories and countries incorporated into or occupied by the German Reich in furtherance of the waging of these wars of aggression. The defendant Koerner, as the permanent deputy of Goering, played a leading role in the planning, coordination and execution of an economic program to prepare the German Reich for the waging of aggressive war; he was further responsible for coordinating the economic exploitation of the occupied territories in furtherance of the waging of aggressive war. The defendant Pleiger, as director of the Iron and Metals Section of the office of the Four Year Plan, partici pated in these preparations for aggressive war and was further responsible, with the defendant Koerner, for the organization and direction of the Hermann Goering Works, which was created to, and did, provide iron, steel, and finished armament products for the equipment of the German armies of conquest.

9. In furtherance of the planning and preparation for aggressive war, the defendant Lammers coordinated at the highest level the total mobilization of economic, financial, administrative, and military resources of the Third Reich. He signed laws and decrees including, among others, the Reich Defense Law, decrees creating the Secret Cabinet Council and establishing the Ministerial Council for the Defense of the Reich, and the decree whereby Hitler assumed personal command of the Wehrmacht. He further effected total mobilization by participation in meetings of the Reich Defense Council, the Reich Defense Committee, the General Council for the Four Year Plan and the Ministerial Council for the Defense of the Reich, whereby the military, economic, financial, agricultural, and rearmament phases of mobilization were accomplished. He resolved jurisdictional problems and conflicts as to the respective spheres of competence in mobilization schemes of various supreme Reich authorities, and received reports regularly from the Plenipotentiary General for the Economy, from the Plenipotentiary General for Administration, and the Plenipotentiary for the Four Year Plan. By virtue of the aforesaid activities and otherwise, the defendant Lammers synchronized the economic, financial, military, and administrative preparations with the general program of aggression.

10. The defendant Stuckart drafted, formulated, and signed decrees and legislation required for the administrative mobilization of the Reich for war, including the laws pertaining to military conscription and the Reich Defense Law. He was one of the leading officials responsible for wartime civil administration,

and in the performance of his duties he created an administrative organization in accordance with wartime needs, which was actually put into operation after Germany adopted a policy of aggression. He played a key role in the preparation of the machinery required for the incorporation of conquered territories into the Reich and for the administration of countries to be incorporated into or belligerently occupied by the German Reich in the course of its wars of aggression.

11. The defendant Schwerin von Krosigk was responsible for the financing of the wars of aggression by the floating of long and short term loans, the supplying of the means for honoring "Mefo bills," the expropriation of property of alleged opponents of Germany's aggressive policies, the strengthening of the Reich Bank, the transfer into gold of foreign exchange resources available to Germany, and otherwise. He was further responsible for financing other phases of the economic, military, and political preparations for war, and maintained secret budgets to conceal the extent of the rearmament program and the growth of the armed forces, and prepared and executed other fiscal measures required to finance the preparations of the Reich for war.

12. The defendant Dietrich, as press chief of the Party and the Reich, created, formulated, and controlled the press policy for the State and for the Party. Through the issuance of daily instructions, he subordinated the entire German press to the political, diplomatic and military purposes of the Nazi leaders. By the falsification, distortion and perversion of news, and the extensive use of inflammatory propaganda, he so influenced and deceived the German people as to secure their support of the aggressive policies of the German Reich. He participated in the psychological planning and preparation for wars of aggression; the greatest emphasis was placed on the supreme mission of the German people to lead and dominate other peoples by virtue of the Nazi doctrine of racial superiority, and, thus, the ground was prepared for support of the concept of German world supremacy. Before each aggressive act, press campaigns were initiated under the direction of the defendant Dietrich to weaken the prospective victims, provide spurious "justification" for aggression, and prepare the German people psychologically for war.

13. In order to achieve maximum German self-sufficiency in foodstuffs in preparation for aggressive wars, the defendant Darré organized the agricultural economy for aggressive war so as to obtain control over virtually every phase of German agriculture, including food production, processing, distribution, and consumption, as well as importation of all major agricultural commodities. He also participated in the military, economic, and

rearmament phases of the preparations for aggression; he signed laws and decrees directed toward effecting total mobilization, including the institution of compulsory military service, the procurement of land for the use of the armed forces and the mobilization of the war food economy. He participated in the formulation of a grain storage program designed to make Germany self-sufficient in grain supplies, and, in cooperation with the High Command of the Armed Forces and others, requisitioned the storage space required for the tremendous grain reserves which were being built up. Long before the outbreak of war, secret decrees were prepared under his direction in the Reich Ministry for Food and Agriculture, which covered in minute detail the war food economy program to be put into effect under the war mobilization order, and created an administrative organization in accordance with wartime standards. These decrees were put into operation when Germany attacked Poland.

14. In furtherance of economic planning for aggression, the defendant Koerner participated, with Goering, the defendant Keppler and divers other persons, in the establishment of the Four Year Plan in 1936. Thereafter, the defendant Koerner, as Goering's deputy, directed the Office of the Four Year Plan which was charged with control over the essential economic activities of the German agencies preparing for war, exercised supreme authority in economic matters, was responsible for the development and stockpiling of critical war materials, and which was designed to prepare the armed forces and the German economy for aggressive war within 4 years. Between 1939 and 1942, Koerner also served as Chairman of the General Council of the Four Year Plan, which was concerned with problems of labor allocation and production in the war economy. The defendant Pleiger, by virtue of his position as the first head of the Iron and Metals Section of the Office of the Four Year Plan, participated in the economic planning for German aggression. Further, as a result of researches into German wartime requirements conducted by the Office of the Four Year Plan, the defendants Pleiger and Koerner participated with Goering and others in the creation of the Hermann Goering Works in 1937. The defendant Pleiger, as the dominant figure and active head of the Hermann Goering Works, was responsible for directing its activities, and the defendant Koerner, as chairman of the Aufsichtsrat and holder of other high positions therein, was influential in determining the policies of this huge complex, which was founded in furtherance of the planning, preparation, and waging of wars of aggression by enormously expanding Germany's steel and armament production resources and by making Germany self-sufficient with respect to iron ore.

15. In country after country, the pattern of diplomatic planning and preparation for invasions and wars of aggression was substantially the same. The program adopted for the destruction of these countries involved, on the one hand, the making of treaties, agreements, and assurances by which the German Reich pledged herself to respect their territorial integrity and, on the other hand, the promotion of fifth column activities and the accomplishment of illegal political penetration designed to undermine their sovereignty. In Austria, in wanton disregard of the Austro-German treaty of 11 July 1936, whereby Germany obligated herself not to interfere in Austrian affairs, the defendants Keppler, Veesenmayer, von Weizsaecker, and Bohle provided political and financial support to the outlawed National Socialist Party of Austria in order to maintain continuous pressure against the legitimate government. As a result thereof the relations between the two countries steadily worsened, culminating in the conference at Berchtesgaden on 12 February 1938 at which the Austrian Chancellor Schuschnigg, in the presence of the defendant Keppler, was threatened with an immediate German military invasion of Austria. In the face of this threat and of the subsequent diplomatic and propaganda pressure exerted by the defendants Keppler, Veesenmayer, Dietrich, Bohle, and others, Dr. Schuschnigg was finally forced to resign on 11 March 1938 and at daybreak on 12 March 1938 German troops marched into Austria. In order to justify the invasion and give it a semblance of legality, a fictitious telegram concocted by Goering and Keppler was quoted by the German press to establish that the newly created Austrian puppet government had requested the presence of German troops to prevent disorder.

16. In continuation of the Nazi policy of diplomatically isolating and then destroying each of its victims separately, Czechoslovakia, the next victim of German aggression, received solemn assurances from the Third Reich of its peaceful intentions, at the time of the Anschluss with Austria early in 1938. Simultaneously, members of the German Foreign Office, including the defendants von Weizsaecker and Woermann, were secretly preparing the groundwork for aggression by providing political, military, and financial assistance to the Sudeten German Party, under the leadership of Konrad Henlein, and inciting that movement to lodge continual demands for the complete separation of the Sudetenland from the Czechoslovakian Republic. The defendant Bohle employed the Foreign Organization of the NSDAP to foment fifth column activities in Czechoslovakia, and the defendant Berger participated in the training of the Henlein Free Corps by the SS in Germany and served as personal liaison officer

between the Reichsfuehrer SS and Henlein. The defendant von Erdmannsdorff negotiated Balkan support for this aggressive act. In the press and propaganda campaigns launched prior to the conquest of Czechoslovakia, the defendant Dietrich issued instructions to the press to "play up" the alleged persecution of Sudeten-German and Slovak minorities within Czechoslovakia and the "anti-German politics" of the Prague government. The Munich Pact of 29 September 1938, signed in the presence of the defendant Meissner, among others, and the separation of the Sudetenland from Czechoslovakia, marked the successful culmination of this phase of German diplomatic policy. In flagrant violation of this pact, whereby Germany had agreed to respect the integrity of the remaining territory of Czechoslovakia, the defendants Keppler, Veesenmayer, Dietrich, Meissner, and Bohle continued to foment a Slovak independence movement in order to further the Nazi program of aggression. On 14 March 1939, the Czechoslovakian president, Hacha, at a conference in Berlin, in the presence of the defendants von Weizsaecker, Dietrich, Keppler, and Meissner, was violently threatened by Hitler with the immediate military invasion of Czechoslovakia and the destruction of Prague by bombing. In the face of these threats, Hacha capitulated, and on 15 March 1939, the defendants Lammers, Meissner, and Stuckart, among others, accompanied Hitler to Prague when German troops marched into Bohemia and Moravia.

17. Repeating the pattern of duplicity employed in the conquests of Austria and Czechoslovakia, the defendants von Weizsaecker, Woermann, Bohle, Keppler, and Veesenmayer participated in a series of diplomatic and political moves against Poland whereby, in disregard of recent assurances and agreements, the return of Danzig and the Polish Corridor was demanded as a pretext for aggression, Polish counterproposals for the peaceful settlement of German claims were rejected, and an energetic program to mobilize potential allies in the German cause of aggression and to neutralize France and Great Britain as possible opponents was undertaken. The political, propaganda and diplomatic blueprint for this war of aggression was carefully designed by the defendants von Weizsaecker, Woermann, Dietrich, Bohle, and Veesenmayer, among others, to shift the apparent responsibility for the war to the victim. Border incidents were staged, and alleged acts of terrorism committed by the Poles against German nationals and racial Germans were fabricated and publicized. All attempts by France, Great Britain, the United States, and other nations, to persuade the German Reich to agree to a peaceful settlement of her dispute with Poland were rejected.

In the early hours of 1 September 1939, Germany launched this war of aggression which came to involve Great Britain, France, and the greater part of the world.

18. Subsequent to the outbreak of war, the pattern of diplomatic and political planning and preparation remained substantially unchanged, and further aggression was embarked upon whenever considered politically or militarily expedient. Prior to the invasion of Norway, the German Foreign Office financed the fifth column activities of Vidkun Quisling, and the defendants Lammers and Bohle maintained liaison with Quisling and coordinated the camouflaged fifth column activities of the Reich authorities engaged in secret preparation for the aggression against Norway. The defendants von Weizsaecker, Woermann, and Ritter participated in the preparation and promulgation by the German Foreign Office of the official diplomatic communiques purporting in part to justify the aggressions against Norway and Denmark on 9 April 1940 and against the Netherlands, Belgium, and Luxembourg on 10 May 1940. The defendant Schellenberg participated in the staging of the "Venlo Incident" which involved the kidnaping of enemy and neutral nationals to fabricate a pretext for the invasion of the Low Countries. Like the aggressions against the Scandinavian and Low Countries, plans for the aggressive war against Greece and Yugoslavia were characterized by a series of diplomatic and political moves by the defendants von Weizsaecker, Woermann, Ritter, Veesenmayer, and other members of the German Foreign Office. The defendants Berger and Bohle participated in the creation of plans for fifth column activities, the fabrication of atrocities allegedly committed against racial Germans in Yugoslavia which were publicized in the press and propaganda organs under the supervision of the defendant Dietrich as a pretext for aggression, and the secret recruitment of racial Germans who, subsequent to the invasion on 6 April 1941, were activated by the defendant Berger into Waffen SS military divisions which assisted in the German military conquest of Yugoslavia.

19. In the preparation and planning which preceded the undeclared attack against the Union of Soviet Socialist Republics on 22 June 1941, German diplomatic efforts were directed by the defendants von Weizsaecker, Woermann, Ritter, Bohle, and von Erdmannsdorff towards mobilizing allies in the German cause of aggression, and as a result thereof, the military support of Rumania and Hungary was secured. As early as November 1940 the defendant Koerner was informed by Goering of the coming attack against the Soviet Union, and thereafter he attended and advised at conferences which were convened to consider the scope

and method of German exploitation of the Eastern economies. On 20 April 1941, a Fuehrer decree, signed by the defendant Lammers, appointed Reich Leader Rosenberg commissioner for the centralized control of problems relating to the Soviet Union and other eastern territories. The defendants Koerner and Stuckart and representatives of the German Foreign Office, over a period of months preceding the invasion, worked with Rosenberg to design the framework of the future political, administrative and economic organization of the territories of the Soviet Union, including the selection of officials for the civil administration of those territories by the defendant Stuckart. In this same period the activities of the defendant Dietrich were integrated with Rosenberg's plans. In order to reverse the trend of German public opinion as it had been nurtured after the Nonaggression Pact between Germany and the Soviet Union, the defendant Dietrich directed the press and propaganda agencies to renew anti-Soviet propaganda and to prevent the coming aggression against the Soviet Union as a "preventive war" for the defense of the Fatherland. During this period the defendant Schellenberg participated in the creation of special task forces of the SS, called "Einsatzgruppen," for the extermination of all opposition in the territories of the Soviet Union to be invaded. Well in advance of the actual attack, the defendant Lammers signed legislation appointing the Plenipotentiary for the Four Year Plan as the German official responsible for the economic exploitation of the territories to be occupied, and operational zones were established in the Arctic Ocean and in the Baltic and Black Seas, by the defendant von Weizsaecker and other members of the German Foreign Office, for the German naval and air forces.

20. The pattern of German diplomatic and political preparation which preceded the attack on the United States of America differed from the pattern of previous Nazi aggressions on account of the geographical position occupied by Germany with respect to the United States and because of Germany's involvement in the European conflict. The Foreign Organization of the NSDAP, under the leadership of the defendant Bohle, had been engaged for many years prior to the war in infiltration into the economic and political life of the United States and other countries of the Western Hemisphere and had fomented fifth column activities in these countries in furtherance of the German Reich's preparations for possible aggression against the United States. In addition, from early 1941, continuous diplomatic efforts were made by the defendants von Weizsaecker, Woermann, and Ritter and other members of the German Foreign Office to induce Japan to attack British possessions in the Far East, and Japan was

further assured in the presence of the defendant Meissner that should she become engaged in a war with the United States, Germany would immediately participate. During the prelude to aggression, German public opinion was systematically inflamed against the United States. After the attack at Pearl Harbor on 7 December 1941, Hitler issued orders on 8 December 1941 to the German navy to attack American ships "whenever and wherever they may be," despite the fact that a state of war was not declared between Germany and the United States until 11 December 1941.

21. Pursuant to Nazi theories of "Lebensraum," and in furtherance of the German Reich's waging of wars of aggression, certain of the conquered territories were "incorporated" into Germany. The defendant Lammers signed, among others, the laws uniting Austria, the Free City of Danzig, Memel, Eupen, Malmedy, and Moresnet with the German Reich, the decree appointing the Reich Commissioner for Austria, and legislation extending German civil administration to Austria, the Sudetenland and the Eastern Territories (West Prussia and Posen [Poznan]). He was responsible for the over-all coordination of the incorporation of these territories and their complete integration into the German Reich. The defendant Stuckart participated in the formulation and drafting of legislation which effected the economic, political, administrative and military incorporation and subsequent administration of these territories and participated in the appointment of administrators for the performance of the administrative tasks involved. He participated in the formulation of the law of 13 March 1938 which united Austria with the Reich. In setting up German administration in Austria, he drafted and signed decrees which introduced German law and its enforcement by the Gestapo and SD, the Nuernberg racial decrees, and the military service law. He participated in the formulation of the laws incorporating into the Reich the Sudetenland, Memel, Danzig, the Eastern Territories (West Prussia and Posen [Poznan]), and Eupen, Malmedy, and Moresnet, and in plans for the incorporation of French territory. The defendant Darré participated in the absorption into the German war food economy of the agricultural economies of these incorporated territories by measures which introduced German agricultural administration and legislation, and which controlled virtually every phase of agriculture. SS personnel were recruited in these territories and SS units organized under the direction of the defendant Berger. The financial incorporation of the territories united with the Reich was accomplished by the defendant Schwerin von Krosigk; in setting up German financial control

over these incorporated territories, he assumed control over their financial institutions and extended Germany's financial regulations to these territories. The proceeds from the expropriation of public and private property in these territories by agencies of the German Reich were turned over, in many instances, to the Reich Treasury and used in the financing of aggressive wars.

22. The complete subjugation of the territories belligerently occupied by the German Reich was so designed as to obtain the maximum economic, financial, and military benefit from these territories, and through the establishment of administrative machinery, to effect policies of ruthless exploitation. The defendant Lammers signed legislation establishing the Protectorate of Bohemia and Moravia and the authority of the German Reich to legislate in the Protectorate. He also signed the laws extending German administration to the Government General and to the Occupied Eastern Territories, and signed legislation appointing administrators in the Protectorate, the Government General and other of the occupied territories, including the appointment of Goering as Plenipotentiary of the Four Year Plan in charge of the economic exploitation of the U. S. S. R. The defendant Lammers was further responsible for coordinating with the supreme Reich authorities policies initiated in the occupied territories and was actively engaged in the direction and administration of these territories. The defendant Stuckart, as the head of the Central Offices for Austria, the Sudetenland, Bohemia, and Moravia, the Government General, Norway and the occupied southeastern territories, was charged with the internal civil administration of these territories and obtaining close cooperation between the German officials in these occupied countries and the supreme Reich authorities, participated in the formulation of the proclamation establishing the Protectorate of Bohemia and Moravia, and promulgated changes in the boundaries of Alsace and Lorraine. The defendant Berger participated in the establishment of SS organizations and the recruitment of SS personnel from among the nationals of the occupied territories and in certain of the puppet governments, such as Croatia, compelled the institution of compulsory conscription for Waffen SS military divisions. He also participated in the establishment in these territories of puppet political organizations which fully cooperated with the occupation authorities. The defendant Schwerin von Krosigk was responsible for the maximum exploitation of the financial resources of these occupied territories and controlled their fiscal institutions in such a manner as to obtain maximum revenues for the German Reich. The Reich Treasury, under his direction, received the proceeds from the expropriation of public

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and private properties and provided the necessary financial assistance for the administration of these territories and the waging of the German Reich's wars of aggression. The defendants von Weizsaecker, Woermann, Ritter, von Erdmannsdorff, Veesenmayer, and Keppler, as leading officials of the German Foreign Office, participated in the political development and direction of the occupied territories, particularly those territories wherein puppet governments under the domination of the German Foreign Office had been installed. By the maintenance of continuous diplomatic pressure, intimidation and coercion, the puppet and satellite governments were compelled to support Germany in the course of its wars of aggression. Further, they participated in the partitioning of certain of the occupied territories, including Yugoslavia, and in the evolution of plans for the final integration of the occupied countries into the orbit of the German Reich after the cessation of hostilities.

23. In addition to the acts and conduct of the defendants set forth above, the participation of the defendants in planning, preparation, initiation, and waging of wars of aggression and invasions of other countries included the acts and conduct set forth in counts three to seven inclusive, of this indictment, which acts and conduct were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries. The allegations made in said counts three to seven are hereby incorporated in this count.

VIOLATION OF LAW

24. The acts and conduct set forth in this count were committed by the defendants unlawfully, willfully, and knowingly, and constitute violations of international law, treaties, agreements, and assurances, and of Article II of Control Council Law No. 10.

COUNT TWO—COMMON PLAN AND CONSPIRACY

25. The defendants von Weizsaecker, Keppler, Bohle, Woermann, Ritter, von Erdsmannsdorff, Veesenmayer, Lammers, Stuckart, Darré, Meissner, Dietrich, Berger, Schellenberg, Schwerin von Krosigk, Koerner, and Pleiger, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such crimes against peace) as defined by Control Council Law No. 10,

and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan and conspiracy.

26. The acts and conduct of the defendants set forth in counts one, three, four, five, six, and seven of this indictment formed a part of said common plan and conspiracy and all the allegations made in said counts are incorporated in this count.

COUNT THREE—WAR CRIMES: MURDER AND ILL-TREATMENT OF BELLIGERENTS AND PRISONERS OF WAR

27. The defendants von Weizsaecker, Steengracht von Moyland, Ritter, Woermann, von Erdmannsdorff, Lammers, Dietrich, and Berger, with divers other persons, during the period from September 1939 to May 1945, committed war crimes, as defined in Article II of Control Council Law No. 10, in that they participated in atrocities and offenses against prisoners of war and members of the armed forces of nations then at war with the Third Reich or were under the belligerent control of, or military occupation by Germany, including murder, ill-treatment, enslavement, brutalities, cruelties, and other inhumane acts. Prisoners of war and belligerents were starved, lynched, branded, shackled, tortured, and murdered in flagrant violation of the laws and customs of war, and through diplomatic distortion, denial and fabricated justification, the perpetration of these offenses and atrocities was concealed from the protecting powers. The defendants committed war crimes in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of war crimes.

28. The murders and other crimes charged in this count included, but were not limited to, the following:

a. The Third Reich adopted an official policy in 1943 whereby the civilian population was urged to lynch English, American, and other Allied fliers who had been forced by military action to land in Germany. In order to encourage these killings, the Reich Leader SS in August 1943 ordered the police not to interfere in assaults committed by German civilians on English and American "Terror Fliers".* The defendant Dietrich issued a directive that all newspapers withhold from publication any mention of the killing of Allied fliers. The German Foreign Minister and the defendant Lammers took part in meetings and conferences

* This order was introduced in the IMT trial as Document USA–333. The complete German text appears in Trial of Major War Criminals, Nuremberg, 1949, volume XXXVIII, pages 313 and 314.

which resulted in the formulation, on 6 June 1944, of a decree which stated that captured enemy aviators should be exposed to "Lynch Law". The defendant Ritter wrote on 20 June 1944 that in spite of the obvious objections, founded on international law and foreign politics, the German Foreign Office was in agreement with the proposed measures. A secret circular[1] issued by Reichsleiter Bormann containing this "Flier Order" was sent to the supreme Reich authorities, including the German Foreign Office, the defendant Berger, and the defendant Lammers, among others; the defendant Lammers forwarded this circular to the Reich Ministry of Justice with the statement that the Reich Leader SS had already received necessary police instructions. In accordance with this policy, it was also provided that if these fliers were not lynched by the civilian population, they were, upon capture by German authorities, to be segregated from other prisoners of war, classified as criminals and denied prisoner-of-war status to circumvent the intervention of the protecting power, and turned over to the SD for "special treatment", which meant execution. This plan was initiated by the German Foreign Office through the efforts of the defendant Ritter. As a result of these policies, many American, English, and other Allied fliers were lynched by the German civilian population or murdered by the SD.

b. On 18 October 1942 Hitler issued a decree[2] which ordered that all members of Allied "Commando" units, often when in uniform and whether armed or not, were to be "slaughtered to the last man," even if they attempted to surrender. It was further provided that if such Allied troops came into the hands of the military authorities after being first captured by the local police, or in any other way, they should be handed over immediately to the SD for "special treatment." Under the provisions of this policy, many Allied troops were murdered, and the defendants von Weizsaecker, Steengracht von Moyland, Ritter, Woermann, and von Erdmannsdorff, among others, with full knowledge of those killings, informed the protecting powers through diplomatic channels that these troops had been killed "in combat."

c. In March 1944 approximately fifty officers of the British Royal Air Force, who escaped from the camp at Stalag Luft III where they were confined as prisoners of war, were shot on recapture. The German Foreign Office was fully advised and prepared "cover up" diplomatic notes to the protecting power, Switzerland. Von Thadden of the German Foreign Office wrote

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[1] This circular was introduced in the IMT trial as Document USA–329. The complete German text appears in Trial of Major War Criminals, op. cit., volume XXV, pages 112 and 113.

[2] This decree was introduced in the IMT trial as Document USA–542. Complete German text appears in Trial of Major War Criminals, op. cit. volume XXVI, pages 115–120.

to Wagner, a subordinate of the defendant Steengracht von Moyland stating that a communication was being sent to Great Britain via Switzerland to the effect that, in the course of a search, "a number of British and other escaped officers had to be shot as they had not obeyed instructions when caught." In furtherance of this policy to shoot escaped prisoners of war upon recapture, the defendant Ritter issued a warning notice, disclosing the creation of so-called "death zones" for the alleged protection of "vital installations" wherein "all unauthorized persons will be shot on sight." A letter from the German Foreign Minister to the defendant Ritter in July 1944 stated that the Fuehrer was in agreement with the German Foreign Office communication to the Swiss Embassy concerning the escape of the prisoners of war from Stalag [Luft] III, and that he further agreed to the issuance of the warning notice and the forwarding of such a communication to the Swiss Embassy.

d. Between November 1944 and January 1945, plans were formulated to murder a French general who was a prisoner of war in German custody. A number of conferences were held between officials of the Office of Chief of Prisoner of War Affairs, the German Foreign Office, and other agencies regarding the detailed arrangements as to the proposed murder. The German Foreign Office prepared diplomatic notes to the protecting power, Switzerland, and elaborate precautions were taken to cover up the murder as a justifiable shooting of a prisoner of war "while attempting to escape." The defendants Steengracht von Moyland and Ritter and their subordinates participated in these arrangements. The French General Mesny was selected on the suggestion of the defendant Berger. A plan was evolved which culminated in the murder on 19 January 1945, during a fabricated escape incident, of General Mesny. Under the supervision and with the approval of the defendant Berger, his subordinates in the Office of Chief of Prisoner of War Affairs collaborated with the Gestapo in putting the murder plan into effect.

e. Between September 1944 and May 1945, hundreds of thousands of American and Allied prisoners of war in the custody of the German Reich were compelled to undertake forced marches in severe weather without adequate rest, shelter, food, clothing, and medical supplies. Such forced marches, conducted under the authority of the defendant Berger, resulted in great privation and death to many thousands of prisoners.

VIOLATION OF LAW

29. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly, and

constitute violations of international conventions, including the Hague Regulations, 1907, and the Prisoner of War Convention, Geneva, 1929; of the laws and customs of war; of the general principles of criminal law as derived from the criminal laws of all civilized nations; of the internal penal laws of the countries in which such crimes were committed; and of Article II of Control Council Law No. 10.

COUNT FOUR—CRIMES AGAINST HUMANITY: ATROCITIES AND OFFENSES COMMITTED AGAINST GERMAN NATIONALS ON POLITICAL, RACIAL, AND RELIGIOUS GROUNDS FROM 1933 to 1939

30. The defendants Darré, Dietrich, Lammers, Stuckart, Meissner, Schwerin von Krosigk, Rasche, Koerner, Keppler, Veesenmayer, Bohle, von Weizsaecker and Woermann, with divers other persons, during the period from January 1933 to September 1939, committed crimes against humanity as defined in Article II of Control Council Law No. 10, in that they participated in atrocities and offenses against German nationals, including murder, extermination, ill-treatment, enslavement, imprisonment, plundering and looting of property, and other persecutions and inhumane acts committed on political, racial, and religious grounds. The defendants committed crimes against humanity in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of crimes against humanity.

31. With the appointment of Hitler as Reich Chancellor, and the seizure of government control by the NSDAP on 30 January 1933, a program of persecution of German nationals, on political, racial, and religious grounds, was initiated and executed with the participation of the defendants charged in this count. The persecution was concentrated against political enemies of the National Socialist regime, including members of the Reichstag, party leaders, leaders and officials of the German trade unions, the Catholic and Protestant churches, and other religious denominations, the Free Masons, and persons of Jewish extraction. The decree of 28 February 1933 suspending the constitutional guaranties was used by the defendants to throw alleged political enemies into concentration camps, and to confiscate their property. The persecutions on political grounds embraced all political parties, groups, their leading officials, and civil servants. On 7 April 1933, a law was promulgated eliminating from office all civil servants who were opposed to National Socialist ideology. All political parties, other than the NSDAP, were finally outlawed by

the law of 14 July 1933. Their property was confiscated. Starting in February 1933, thousands of political leaders and prominent supporters of other parties were murdered or thrown into concentration camps. The defendants Lammers, Stuckart, and Meissner participated in legislative measures for the effectuation of these persecutions. The defendant Schwerin von Krosigk, as head of the Reich Treasury, supported the program of persecution by financing budgets for the establishment and management of the SS and of the concentration camps, and accepted the confiscated assets of the political persecutees into the Reich Treasury. The defendant Dietrich, through his press and propaganda organs, conditioned public opinion for the persecution of those designated as political enemies. The other defendants named in this count participated in their spheres of jurisdiction in the persecution of non-Nazi civil servants, for example, the defendant Stuckart, in the field of teaching and education and in the administration of the Reich Ministry of the Interior, and the defendant Dietrich, by banning non-Nazi publishers, editors, journalists, writers, and artists from their professions.

32. Before the Nazi government took control, organized labor held a well-established and influential position in Germany. Most of the trade unions of Germany were joined together in two large congresses or federations, the Free Trade Unions and the Christian Trade Unions. The Nazi government, viewing German trade unionism as incompatible with their objectives, dissolved the trade unions, murdered union leaders, threw them into concentration camps, or otherwise mistreated them, and confiscated union funds and their property. The defendant Schwerin von Krosigk financed institutions and personnel engaged in the commission of these persecutions, the defendant Lammers coordinated administrative measures at the highest level, and the other defendants participated in their respective spheres of jurisdiction.

33. The persecution of the Christian churches, their clergy and religious orders, and of prominent Christian leaders among the laity, started immediately after the National Socialist government came into power. The defendants Lammers and Stuckart were connected with legislative and administrative measures promoting religious persecution such as confiscating church property and suppressing religious orders and religious youth organizations. The defendant Schwerin von Krosigk accepted into the Reich Treasury funds from confiscated church and religious property. Catholic and Protestant clergy, and prominent church leaders among the laity were mistreated and thrown into concentration camps. The defendants Lammers and Stuckart participated in the formulation of legal pretexts for these persecutions. The

defendant Dietrich, through his press and propaganda organs, publicized these pretexts and banned religious magazines. Whenever protests were lodged in connection with these persecutions, the defendants von Weizsaecker and Woermann, by denials and deceptions, misrepresented and concealed the prevailing terror, thus paving the way for the continuation and intensification of the persecution of the churchmen.

34. Immediately after the Hitler government came into power on 30 January 1933, the anti-Jewish policy of the NSDAP was put into effect. This policy was based upon Point 4 of the program of the NSDAP, which declared "only a member of the race can be a citizen. A member of the race can only be one who is of German blood, without consideration of creed. Consequently no Jew can be a member of the race." Furthermore the policy was based on the doctrine of the NSDAP that Jews are subhuman beings, as proclaimed by the press and propaganda organs of the NSDAP under the control and supervision of the defendant Dietrich and as proclaimed by the defendant Darré, who advocated the elimination of the Jews in numerous books and speeches. The effectuation of this program started early in 1933 with beatings and arrests of Germans of Jewish extraction. The next step was a boycott of Jewish enterprises on 1 April 1933. The Central Committee for this boycott was headed by Streicher and included the defendant Darré. Beginning 7 April 1933, legislative, administrative, and police measures were enacted depriving Germans of Jewish extraction of every conceivable right and economic position that they might have had as German citizens or even as human beings. Germans of Jewish extraction were barred from the professions, including law, medicine, teaching, writing, and the arts and sciences; from all public service, national, state, and local; and from the universities and other educational institutions. The defendants Lammers, Stuckart, Meissner, Dietrich, Bohle, Darré, Schwerin von Krosigk, and Koerner participated in the formulation, enactment, and execution of these measures. The defendant Dietrich had jurisdiction in executing these measures in the field of writing, journalism, and the press; the defendant Stuckart in the sphere of teaching, education, and civil service. The other defendants participated in their spheres of jurisdiction, and the defendant Lammers served as coordinator of these measures. These acts culminated in the promulgation, on 15 September 1935, of the Nuernberg Racial Laws, which deprived Germans of Jewish extraction of their civil rights and prohibited marriages between Germans of Jewish extraction and other Germans, thus cutting off Germans of Jewish extraction from the German political body and from community and social

life. The defendants Darré, Keppler, and Bohle advocated and voted for the passage of the Nuernberg Laws as members of the Reichstag. The defendant Stuckart supervised the drafting of the executive directives for the administration of the Nuernberg Laws. The other defendants participated in their spheres of jurisdiction in the execution and administration of these laws.

35. As the segregation of Germans of Jewish extraction from the political, cultural, and social life of the nation proceeded and was intensified, the defendants, together with other German government and NSDAP agencies, sought pretexts for the economic stripping and impoverishment of their victims. The defendant Darré was responsible for the issuance of an order in December 1937, which prohibited all members of the Reich Food Estate from consulting Jewish physicians or lawyers, or from purchasing in Jewish shops. (*Tr. p. 21124.*) As part of an intimidation campaign, illegal arrests, prepared with the cooperation of the internal revenue agencies which were under jurisdiction of the defendant Schwerin von Krosigk, were made in the summer of 1938. The assassination in Paris of the German Legation Secretary von Rath by a Pole of Jewish extraction was seized upon by Reich authorities as a pretext for launching a nation-wide pogrom. The night of 9 to 10 November 1938 unleashed an orgy of arson, destruction, mass arrests, and murder against Germans of Jewish extraction. Synagogues were burned, cemeteries were desecrated, private property was wantonly destroyed, and many tens of thousands of persons were thrown into concentration camps and subjected to torture or murdered. The defendant von Weizsaecker delivered a speech in Paris at the funeral of von Rath expressing his concurrence with this policy of mass reprisal by giving voice to the anti-Jewish battle cry, "Germany Awake." This manufactured pogram was advertised by the press organs of the defendant Dietrich as a "spontaneous action of the German masses." A series of governmental measures excluding Germans of Jewish extraction from the national economy, depriving them without compensation of large portions of their property and forcing their emigration as paupers, followed. "Legal" measures, designed to expropriate and confiscate the domestic and foreign properties of all Germans of Jewish extraction, were inaugurated in an interdepartmental conference held on 12 November 1938 under the chairmanship of Goering, in which the defendants Schwerin von Krosigk, Stuckart, and Woermann participated. The defendant Bohle was immediately informed about the results of the meeting. Among the measures of economic strangulation initiated by and resulting from this conference was the imposition of a collective fine of one billion

marks against Germans of Jewish extraction, subsequently collected under the direction of the defendant Schwerin von Krosigk. It was used for war mobilization purposes by agencies of the Four Year Plan, of which the defendant Koerner was State Secretary. The defendants Keppler and Veesenmayer participated in the formulation and execution of the "Aryanization" of large, privately-owned industrial enterprises. The defendant Darré participated in the issuance of decrees compelling the forced sale of agricultural and forest lands owned by Germans of Jewish extraction. Members of the German Foreign Office participated in the enforced seizure of properties and the blocking of accounts of German nationals of Jewish extraction located abroad, and the Foreign Organization of the NSDAP under the supervision of the defendant Bohle by pressure, intimidation and blackmail, compelled the elimination of all "non-Aryans" from German-owned and controlled enterprises abroad and further attempted to secure partial payment of the aforementioned collective fine from these German nationals. Further, the defendants von Weizsaecker and Bohle participated in the formulation and execution of the plan to force German nationals of Jewish extraction to emigrate from the Reich in an impoverished condition. The defendant Schwerin von Krosigk devised tax pretexts to extort from the emigrants their fortunes. Homes of the expropriated were assigned by his department to many officials of the Reich and the NSDAP, among them the defendants von Weizsaecker and von Erdmannsdorff.

36. The defendant Keppler was a founder and the defendant Rasche was an active member of a group known as the "Circle of Friends" of Himmler, which, throughout the period of the Third Reich, worked closely with the SS, met frequently and regularly with its leaders, and furnished aid, advice, and support to the SS, financial and otherwise, with knowledge that the SS was engaged in various criminal activities including the persecution of Jews and the administration of concentration camps where persons deemed undesirable on political, racial, and religious grounds were confined, ill-treated, and murdered. This organization was composed of about thirty German business and financial leaders, and a number of SS leaders, including Heinrich Himmler, head of the entire SS from 1929 to 1945; Karl Wolff, Himmler's Adjutant; Oswald Pohl, Chief of the SS Economic and Administrative Main Office; Otto Ohlendorf, a leading official of the SS Reich Security Main Office; and Wolfram Sievers, Manager of the Ahnenerbe Society and Director of its Institute for Military Scientific Research. The Circle made regular annual contributions of about one million marks to Himmler to aid in

financing the activities of the SS. The defendant Rasche made and procured contributions by the Dresdner Bank to the SS through the Circle, aggregating at least fifty thousand marks annually for many years and was instrumental in having the monies contributed to the SS through the Circle deposited in a special account at the Dresdner Bank. The defendant Rasche, through his position and influence in the Dresdner Bank, also participated in various other ways in the persecution program of the Third Reich. During the period here involved, the defendant Rasche sponsored, supported and approved large loans by the Dresdner Bank, widely known as the "SS Bank", to the SS and its agencies and other organizations, including the Reich Security Main Office (RSHA) and the Security Police and SD, which played significant roles in the persecution of the Jews and the detention of political prisoners in concentration camps. The defendant Darré also sponsored and supported the program of Jewish persecution which was conducted by the SS. Even before the establishment of the Third Reich, he assisted in the creation of the "Race and Settlement Main Office" of the SS and thereafter, as head of that office and otherwise, he participated in the ideological training of the SS. The defendant Rasche was party to dismissal by the Dresdner Bank of Jewish officials and employees pursuant to the policy of the Third Reich directed towards complete exclusion of Jews from German life and he was a participant in so-called Aryanization transactions and activities of the Dresdner Bank which were carried out as a part of this same policy.

VIOLATION OF LAW

37. The acts and conduct of the defendants set forth in this Count were committed unlawfully, willfully, and knowingly and constitute violations of international conventions, of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

COUNT FIVE—WAR CRIMES AND CRIMES AGAINST HUMANITY: ATROCITIES AND OFFENSES COMMITTED AGAINST CIVILIAN POPULATION

38. The defendants von Weizsaecker, Steengracht von Moyland, Keppler, Bohle, Woermann, Ritter, von Erdmannsdorff, Veesenmayer, Lammers, Stuckart, Darré, Meissner, Dietrich, Berger, Schellenberg, Schwerin von Krosigk, Rasche, Kehrl, and Puhl, with divers other persons, during the period from March

1938 to May 1945, committed war crimes and crimes against humanity, as defined by Article II of Control Council Law No. 10, in that they participated in atrocities and offenses, including murder, extermination, enslavement, deportation, imprisonment, killing of hostages, torture, persecutions on political, racial, and religious grounds, and other inhumane and criminal acts against German nationals and members of the civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by Germany, plunder of public and private property, wanton destruction of cities, towns, and villages, and devastation not justified by military necessity. The defendants committed war crimes and crimes against humanity, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of war crimes and crimes against humanity.

39. The Third Reich embarked upon a systematic program of genocide, aimed at the destruction of nations and ethnic groups within the German sphere of influence, in part by murderous extermination, and in part by elimination and suppression of national characteristics. The object of this program was to strengthen the German nation and the alleged "Aryan" race at the expense of such other nations and groups, by imposing Nazi and German characteristics upon individuals selected therefrom (such imposition being hereinafter called "Germanization") and by the extermination of "undesirable racial elements." The defendants created, formulated, and disseminated inflammatory teachings which incited the Germans to the active persecution of "political and racial undesirables." In speeches, articles, news releases, and other publications, it was constantly reiterated that those groups were germs, pests, and subhumans who must be destroyed.

40. Portions of the civilian populations of occupied countries, especially in Poland and the Occupied Eastern Territories, were compelled by force to evacuate their homesteads, which were sequestered and confiscated by the Third Reich; their properties, real and personal, were treated as revenue of the Reich; and so-called "ethnic" Germans (Volkdeutsche) were resettled on such lands. Concurrent with the invasion of Poland, the defendant Lammers participated in the formulation of a program for the strengthening of Germanism in Poland which outlined the task of resettling German nationals and racial Germans in this conquered territory and the elimination of "non-Aryans." A Fuehrer decree signed by the defendant Lammers was issued on

7 October 1939, laying the foundation for the consolidation of the territory for "Germanization." The defendant Stuckart prepared orders and issued instructions on Germanization and cooperated closely with the SS Race and Settlement Main Office (RuSHA). Special sections in the Ministry of Food and Agriculture, which supervised the administration of the sequestered agricultural properties, were established by the defendant Darré. Agencies created by the Ministry of Food and Agriculture and the Reich Food Estate participated actively in selecting German settlers, arranging transport, aiding actual settlement, and securing deliveries of agricultural products from these properties to Germany. German racial registers were established and legislation enacted defining these classes of "ethnic Germans" and other nationals of occupied territories and the puppet and satellite governments eligible for Germanization, and subsequent acquisition, in some instances, of German citizenship was compelled. Individuals who were forced to accept such citizenship or upon whom such citizenship was conferred by decree became amenable to military conscription, service in the armed forces, and other obligations of citizenship. Failure to fulfill these obligations resulted in imprisonment or death; the forced Germanization constituted the basis for such punishment. Those classes of persons deemed ineligible and those individuals who refused Germanization were deported to forced labor, confined in concentration camps, and in many instances liquidated. The defendants von Weizsaecker, Woermann, Bohle, Ritter, von Erdmannsdorff, and Stuckart, secured the evacuation of German nationals and racial Germans ,from the puppet and satellite governments through negotiations, treaties, and other arrangements made by them and their field representatives in order that they be resettled in the incorporated and occupied territories.

41. In the occupied territories the use of judicial mechanisms was a powerful weapon for the suppression and extermination of all opponents of the Nazi occupation and for the persecution and extermination of "races." Special police tribunals and other summary courts were created in Germany and in the occupied territories, which subjected civilians of these occupied countries to criminal abuse, and denials of judicial and penal process. Special legislation was enacted providing summary trial by these special courts and invoking the death penalty or imprisonment in concentration camps for all members of the civilian population of the occupied territories suspected of opposing any of the policies of the German occupation authorities. The defendant Lammers directed policy concerning these judicial measures of "extermination" through the Ministry of Justice in cooperation with

Bormann and Himmler. Under the Night and Fog Decree (Nacht and Nebel Erlass), persons who committed offenses against the Reich or the German forces in the occupied territories, except where the death sentence was certain, were handed over to the police and taken secretly to Germany for trial and punishment, without notification to their relatives of the disposition of the case. By virtue of special legislation and authorization, certain classes of civilians in the occupied territories, deemed politically, racially, or religiously undesirable, if suspected of having committed a crime, were deprived of all legal remedy and turned over to the Gestapo for summary treatment. Pleas of clemency were filed with and reviewed by the defendant Meissner, prior to their submission to Hitler. The purpose of the aforesaid measures was to create a reign of judicial terror in the occupied countries in order to suppress all resistance and exterminate undesirable elements.

42. In furtherance of the German Reich's program of "pacification" of the occupied territories through terrorism, the arrest, imprisonment, deportation and murder of so-called hostages was effected. Jews, alleged Communists, "asocials", and other innocent members of the civilian population of the occupied countries not connected with any acts against the occupying power were taken as hostages and, without benefit of investigation or trial, were summarily deported, hanged, or shot. These innocent victims were executed or deported at arbitrarily established ratios for attacks by person or persons unknown on German installations and German personnel in the occupied territories. In many cases the recommendation and approval of the German Foreign Office, with the participation of the defendants von Weizsaecker, Steengracht von Moyland, Bohle, Woermann, Ritter, von Erdmannsdorff, and their representatives, was required prior to the execution of these measures and the necessary diplomatic "cover-up" was effected to conceal the nature of these crimes.

43. Recruitment drives were conducted in the occupied territories and the puppet and satellite governments within the German sphere of influence by the defendant Berger. SS units were organized in these countries and SS recruits were obtained, often by compulsion, from among prisoners of war and the nationals of these countries. Through coercive methods, political measures and propaganda, these recruits and conscriptees were assigned to Waffen SS military divisions, the administration of the SS concentration camp system, especially constituted penal battalions (such as the notorious Dirlewanger Sonderkommando) and other SS and police units. These units engaged in the commission of atrocities and offenses against the civilian populations of occupied

and satellite countries, and the defendant Berger formulated and disseminated inflammatory doctrines inciting these and other units to commit such crimes.

44. Simultaneously with German aggressive expansion, the anti-Jewish activities of the defendants were extended to the incorporated, occupied, and otherwise German-dominated countries. Deprivation of civil rights and expropriation of the property of Austrian, Czechoslovakian, Polish, and other nationals of Jewish extraction were initiated by the defendants immediately after annexation or occupation of the country. The defendant Stuckart supervised the drafting of legislative acts and the other defendants collaborated, in their respective governmental spheres, in the execution of this program, in the course of which tens of thousands of foreign nationals of Jewish extraction were thrown into concentration camps and tortured, and many of them were murdered. The defendant Berger furnished SS personnel to staff these camps. The defendant Darré supervised a food rationing program under which Jews were excluded from distributions of vital food, and thereby weakened and exposed to sickness and death. The defendant von Weizsaecker participated in appropriating German Foreign Office funds for pogroms in Lithuania.

45. The above-mentioned inhumane acts were followed by barbarous mass killings of people of Jewish extraction and other foreign nationals in the occupied territories. In May 1941, the defendant Schellenberg drafted the final agreement which established special task forces called "Einsatzgruppen" for the purpose of exterminating hundreds of thousands of men, women, and children of Jewish extraction, and other groups of the civilian populations regarded as racially "inferior" or "politically undesirable." Through the execution of this program, the eastern territories, regarded by the defendants as "Lebensraum" for a Greater Germany, were to be vacated of all people viewed as dangerous to plans for German hegemony in the East. The progress reports on these killings, regularly submitted to the German Foreign Office by the RSHA and German Foreign Office field representatives, were brought to the attention of the defendants von Weizsaecker, Woermann, and von Erdmannsdorff, to assist in the shaping of political policies for the disposition of occupied territories.

46. A program for the extermination of all surviving European Jews was set up by the defendants in the winter of 1941–42 and organized and systematically carried out during the following period. Through the efforts of the defendants Darré, Berger, Dietrich, and others, the rationale and justification for, and the impetus to, mass slaughter were presented to the German people.

During interdepartmental conferences on the "Final Solution of the Jewish Question," which took place in Berlin on 20 January 1942, 6 March 1942, and 27 October 1942, the policy and techniques for the "Final Solution of the Jewish Question" were established. The policy-making session of 20 January 1942 included the state secretaries or representatives of the ministries and agencies concerned; the defendant Stuckart participated in the conference, the defendant Lammers was represented by his Ministerialdirektor Kritzinger, and the German Foreign Office was represented by Under State Secretary Luther, who reported the results of the conference to his State Secretary, the defendant von Weizsaecker immediately after the conference. In the two other conferences, the details were arranged. They were attended by the representatives of the departments of which the defendants were policy makers or leading officials.

47. The previous program for driving out the Jews as pauper emigrees was now supplanted by a program for the evacuation of eleven million European Jews to camps in eastern Europe for ultimate extermination. They were to be transported to those areas in huge labor gangs, and there the weak were to be killed immediately, and the able-bodied worked to death. Closest cooperation between the departments of which the defendants were leading officials was provided, with the RSHA in charge of the actual operations.

48. In the execution of this program millions of people of Jewish extraction from Austria, Czechoslovakia, Poland, France, Belgium, the Netherlands, Denmark, Norway, Hungary, Bulgaria, Yugoslavia, Rumania, the Baltic States, the Soviet Union, Greece, Italy, and also from Germany were deported to the eastern extermination areas and murdered according to interdepartmental plan. The defendants Lammers and Stuckart were principally connected with the formulation of the genocidal policy, and the defendant Dietrich conditioned public opinion to accept this program, by concealing the real nature of the mass deportations. Since by far the greater part of the victims of this genocidal program were nationals of puppet and satellite countries dominated by the Third Reich, the German Foreign Office through the defendants von Weizsaecker, Steengracht von Moyland, Keppler, Bohle, Woermann, Ritter, von Erdmannsdorff, and Veesenmayer and the defendant Berger, forced these governments to deport persons of Jewish extraction within their countries to German extermination camps in the East and directed and controlled the execution of these measures. The decree of 1 July 1943, formulated with the participation of the defendant Stuckart and others and signed by the defendant Schwerin von Krosigk, de-

prived all Jews in Germany of judicial process and authorized the police to punish "all criminal actions committed by Jews," and provided for the confiscation of property of persons of Jewish extraction by the Reich after their death.

49. The defendant Puhl, as the leading official of the Reich Bank, directed and supervised the execution of an agreement between Funk and Himmler for the receipt, classification, deposit, conversion and disposal of properties taken by the SS from victims exterminated in concentration camps. These properties, totalling millions of reichsmarks in value, included, among other things, gold teeth and fillings, spectacle frames, rings, jewelry and watches. To insure secrecy, the deliveries from the SS were credited to a fictitious account and the transaction was given a code name. The proceeds were credited to the account of the Reich Treasury under the defendant Schwerin von Krosigk.

50. The defendants Keppler and Rasche, during the period following the initiation by Germany of its invasions and wars of aggression, continued their membership and activity in the "Circle of Friends" of Himmler and furnished aid, advice and support to the SS through the Circle and otherwise. Early in 1942, the defendant Kehrl became a member of the Circle and thereafter participated actively in meetings and affairs of the Circle. The activities of the SS during this period included participation in schemes for Germanization of occupied territories according to the racial principles of the Nazi Party, deportation of Jews and other foreign nationals and widespread murder and ill-treatment of the civilian populations of occupied territories. The defendant Schwerin von Krosigk financed the budget of and furnished other fiscal support for the SS. The Dresdner Bank, with the support and approval of the defendant Rasche furnished substantial financial and other assistance to the SS both in Germany and in the incorporated and occupied territories. The defendant Rasche also sponsored, supported and approved the furnishing of financial and other assistance by the Dresdner Bank to agencies of the Third Reich which were active in the formulation and execution of the programs of the Third Reich for Germanization of incorporated territories, deportation and ill-treatment of the civilian population of occupied countries, and persecution of Jews and other persons deemed racially or politically undesirable. The agencies of the Third Reich to whom large loans were made by the Dresdner Bank, included the Deutsche Umsiedlungs-Treuhandgesellschaft (commonly known as DUT), established pursuant to instructions of the Reich Commissioner for the Strengthening of Germanism and headed by the defendant Keppler. The latter participated actively in extending to coun-

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tries which came under the control of Germany the policy of the Third Reich to exclude Jews from political and economic life and was instrumental, together with the defendant Rasche, in application of this policy to employees of the Dresdner Bank, its branches and affiliates in such countries.

VIOLATION OF LAW

51. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly, and constitute violations of international conventions, including the Hague Regulations, 1907, and the Prisoner of War Convention, Geneva, 1929; of the laws and customs of war; of the general principles of criminal law, as derived from the criminal laws of all civilized nations; of the internal penal laws of the countries in which such crimes were committed; and of Article II of Control Council Law No. 10.

COUNT SIX—WAR CRIMES AND CRIMES AGAINST HUMANITY: PLUNDER AND SPOLIATION

52. The defendants von Weizsaecker, Steengracht von Moyland, Keppler, Woermann, Ritter, Darré, Lammers, Stuckart, Meissner, Bohle, Berger, Koerner, Pleiger, Kehrl, Rasche, and Schwerin von Krosigk, with divers other persons, during the period from March 1938 to May 1945, committed war crimes and crimes against humanity as defined in Article II of Control Council Law No. 10, in that they participated in the plunder of public and private property, exploitation, spoliation and other offenses against property and the civilian economies of countries and territories which came under the belligerent occupation of Germany in the course of its invasions and aggressive wars. The defendants committed war crimes and crimes against humanity in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with, the commission of war crimes and crimes against humanity.

53. The countries and territories occupied by Germany were exploited for the German war effort in a most ruthless way, without consideration of the local economy and in pursuance of a deliberate design and policy. These plans and policies were intended not only to strengthen Germany in waging its aggressive wars, but also to secure the permanent economic domination by Germany of the continent of Europe. The methods employed to exploit the resources of the occupied territories varied from coun-

try to country. In some occupied countries, exploitation was carried out within the framework of the existing economic structure and a pretense was maintained of paying for property which was seized. This pretense merely disguised the fact that the raw materials, machinery and other goods diverted to Germany were paid for by the occupied countries themselves, either by the device of excessive occupation costs or by forced loans in return for a credit balance in a "clearing account" which was a nominal account only. In other occupied countries, economic exploitation became deliberate plunder and no pretense of legality was maintained. Agricultural products, raw materials needed by German factories, machine tools, transportation equipment, other finished products and foreign securities and holdings of foreign exchange were seized and sent to Germany. In all the occupied and incorporated territories, there was wholesale plunder of art treasures, furniture, textiles, and other articles.

54. The defendants charged in this count participated in the formulation and execution of various parts of the aforesaid plans and programs for the exploitation and spoliation of the occupied countries and territories. The defendants Lammers and Stuckart formulated and signed various decrees authorizing confiscations of property in the occupied countries. They attended meetings at which occupation policies were discussed and formulated, received reports concerning the execution of such policies, and participated in a wide variety of ways in the furtherance of such policies. The German Foreign Office and the defendant Schwerin von Krosigk played a significant role in establishing and carrying out programs for economic exploitation in various occupied countries, particularly in occupied territories in the West. These programs included exaction of excessive occupation indemnities, establishment of so-called "clearing accounts", and the transfer to German ownership of industrial participations and foreign investments by means of compulsory sales. The defendants von Weizsaecker, Woermann, Steengracht von Moyland, and Ritter received reports from the representatives of the German Foreign Office concerning the planning and execution of these programs and were participants in such programs. The defendant Rasche directed and supervised activities of the Dresdner Bank and its affiliates in occupied western areas involving economic exploitation, including particularly activities involving transfer of control of Dutch enterprises to selected German firms through the process called "Verflechtung", which was "interlacing" of Dutch and German capital and economic interests. The defendant Kehrl drafted and participated in the execution of the so-called Kehrl Plan for the exploitation of the textile industry in the occupied

western territories and otherwise participated as Generalreferent in the Reich Ministry of Economics in the programs for economic exploitation in the occupied territories. Under the Kehrl Plan, complete control was obtained by Germans of the existing textile production in the occupied regions of Belgium and northern France, and enormous quantities of raw materials and finished products were transferred from the occupied western territories to Germany.

55. The Nazi program for exploitation of the agricultural resources of the territories occupied by Germany was planned and executed so as to obtain the utmost from the occupied areas with complete disregard for the needs of the inhabitants. Food in vast quantities was removed from the occupied countries and shipped to Germany by a number of techniques ranging from outright seizure to elaborate financial schemes designed to establish a pretense of payment. The foodstuff quotas for occupied areas were set by the Office of the Four Year Plan, headed by the defendant Koerner and in which defendant Darré's representative from the Ministry of Food and Agriculture was an active participant. The orders for fulfillment of these quotas were transmitted by the Ministry of Food and Agriculture to the competent officials in the occupied areas, with the various agencies directed by the defendant Darré participating in the acquisition of the agricultural products and in their storage and distribution within Germany. The defendant Koerner, as Goering's representative for the management of the Economic Executive Staff, East, an organization established to organize and direct economic spoliation of Occupied Eastern Territories, was an active participant in the execution of its plans and programs which called for plundering all industry in and abandoning food-deficit regions, and diverting food to German needs from food-surplus regions. The defendant Rasche participated in furnishing substantial financial and other assistance to Reich agencies involved in the exportation to Germany of Polish goods and products, particularly food and agricultural products.

56. The defendants Kehrl and Rasche were prominent figures in the plunder of public and private property in Czechoslovakia. By virtue of powers delegated by Reich Minister of Economics Funk, the defendant Kehrl directed and reviewed German acquisitions of industrial and financial properties in the Sudetenland and the "Protectorate," and he and the defendant Rasche were specifically empowered by Goering to acquire and regroup major segments of Czech industry so that they could be coordinated effectively with the German war effort. The defendants Kehrl and Rasche drafted and executed plans for the seizure of control

of important Czech coal, steel, and armament properties. With the defendant Kehrl supervising, the defendant Rasche acted as the sole negotiator for many of the properties selected for acquisition, and he was authorized to employ all necessary means and devices, including the use of forced expropriations. As a result of the activities of the defendants Rasche and Kehrl, the Hermann Goering Works, largely influenced and controlled by the defendants Pleiger and Koerner, secured ownership and control of plants and properties forming the foundation of the industrial life of Czechoslovakia. The defendants Kehrl and Rasche also participated in the transfer of control of major financial institutions in Czechoslovakia to Germans. Even before the Munich Pact was signed, the defendant Rasche selected the Sudeten branches of the Boehmische Escompte Bank (BEB) and the Zivnostenska Bank as prime targets in the expansion plans of the Dresdner Bank. Immediately after the German Army occupied the Sudeten region, the defendant Rasche obtained the consent of the defendant Kehrl for exclusive negotiation rights to acquire these branches. The result of negotiations with these Prague banks, conducted by the defendant Rasche, was the absorption of their Sudeten branch banks by the Dresdner Bank at no cost to itself. Thereafter, before the seizure of the remainder of Czechoslovakia by Germany, the Dresdner Bank, with the approval of the defendant Kehrl, planned to gain control of the BEB itself. Immediately after the occupation of Bohemia and Moravia, the defendant Rasche obtained the defendant Kehrl's approval for taking over the BEB and, without waiting for the formalities of transfer to be completed, the Dresdner Bank assumed direction of the operations of the BEB. The formal change of control was then accomplished by writing down the value of existing shares and issuing new shares, to which the Dresdner Bank subscribed. The Dresdner Bank, by the use of similar techniques, acquired the Bank fuer Handel und Industrie, formerly Laenderbank, Prague, and merged it with the BEB. The defendant Rasche further participated in, facilitated and sought advantages from the program of Aryanization introduced into countries occupied by Germany designed to expel Jews from economic life and involving threats, pressure, and coercion to force Jews to transfer their properties to Germans.

57. The German program for the exploitation and spoliation of incorporated and occupied territories was particularly ruthless in the East. The defendant Stuckart was active in the affairs of the Main Trustee Office East (Haupttreuhandstelle Ost), an agency prominent in the execution of such program in Poland. The defendant Keppler participated in the exploitation of Poland

through his position and activity in various spoliation agencies, including the Deutsche Umsiedlungs-Treuhandgesellschaft. The defendant Rasche participated in furnishing substantial financial and other assistance to Reich agencies involved in the sequestration and confiscation of Polish and Jewish enterprises and properties in Poland. Various defendants, including Koerner, Lammers, and Stuckart, assisted in the formulation, even before the attack on the Soviet Union, of the program for the fullest exploitation of all Soviet economic resources and thereafter in the execution of such program. The defendant Koerner, as Deputy to Goering as Plenipotentiary for the Four Year Plan, also participated in the formulation and execution of measures under the decree of 29 June 1941 which directed the Plenipotentiary for the Four Year Plan to order all measures in the newly occupied eastern territories which were necessary for the utmost exploitation of supplies and economic power found there, for the benefit of the German war economy. The defendant Berger, as liaison officer between Rosenberg, in his capacity as Reich Minister for the Occupied Eastern Territories, and Himmler, was active in the execution of various parts of the plans for spoliation in the East. The defendants Schwerin von Krosigk, Darré, Lammers, Koerner, Pleiger, Stuckart, and Kehrl, among other defendants, took part in numerous meetings at which exploitation policies were discussed and plans were made. The defendant Lammers was present at a conference of 16 July 1941, at which Hitler stated that the task faced was of "cutting up the giant cake according to our needs, in order to be able: first to dominate it, second, to administer it, and third, to exploit it."

58. As a part of the program of the Third Reich for the exploitation of the Soviet Union, all Soviet property was declared to be "Property Marshalled for the National Economy" (Wirtschaftssondervermoegen) belonging to the German State. Special corporations, called Monopolgesellschaften or Ostgesellschaften, organized for the express purpose of exploiting the specialized industrial field, were appointed "trustees" to operate Soviet industrial facilities exclusively for the German war economy. The defendants Pleiger and Koerner, during the period from August 1941 to March 1943, were General Manager and Chairman of the Verwaltungsrat (supervisory board), respectively, of the Berg- und Huettenwerke Ost GmbH (commonly referred to as BHO), the "trustee" for the iron, steel, and mining industry and the main spoliation agency in its field of operations. After March 1943, the defendant Pleiger was both General Manager and Chairman of the Verwaltungsrat. The BHO was responsible, among other things, for the exploitation of coal and ore mines, the draining

off of raw materials from the occupied territory; the transfer under sponsorship (Patenschaft) of industrial plants to private enterprise for exploitation in the interests of Germany; and the dismantling of some Ukrainian plants and shipment of the parts to Germany for use in German enterprises. As the German war situation worsened, many plants were destroyed, and machines, installations, and materials were removed, stored, and distributed by the BHO. The Hermann Goering Works, with defendant Pleiger playing a leading part, engaged in various transactions in conjunction with the BHO involving the economic spoliation of the Soviet Union. The defendant Kehrl was Chairman of the Verwaltungsrat of Ostfaser GmbH and its subsidiary companies, which were established as "trustees" for the textile industries in the Soviet Union and other Occupied Eastern Territories. The activities of these "trustees," directed and supervised by the defendant Kehrl, included the taking over and operation of hundreds of textile plants, the seizure of enormous quantities of raw materials and the exportation to the Reich of seized materials and plant production. The necessary financing for these activities was obtained, in considerable part, from credits advanced by the Dresdner Bank and its affiliates, with the support and approval of the defendant Rasche. The defendant Keppler was a leading figure in the Kontinentale Oel A.G. which was designated to exploit the oil resources of the Soviet Union and other occupied territories which fell into German hands.

59. The wholesale seizure of cultural and art treasures and other articles extended to all occupied territories and countries. The defendant Lammers signed and circulated decrees which authorized seizure and confiscation of such articles in incorporated and occupied territories, attended meetings at which plans for such seizures were discussed, received reports concerning seizures which had been effected, and assisted in a variety of ways in the execution of the program which involved plunder of museums, libraries, and private homes. The defendants von Weizsaecker, Woermann, and Ritter, in their positions in the German Foreign Office, received and acted upon reports relative to seizures and looting of cultural and art treasures, the activities in the Soviet Union being carried out in part by a special "battalion" which was sent to the East by the German Foreign Office to seize and send to Germany objects of cultural and historical value. The defendant Berger, as Chief of the Political Directing Staff of the Reich Ministry for the Occupied Eastern Territories, assumed charge in 1943 of the Central Office for the Collection of Cultural Objects, established in April 1942 as an office of Rosenberg's Einsatzstab within the Ministry for the Occupied

Eastern Territories. The defendant Berger was an active participant in the transfer to Germany of a vast number of art treasures and other articles seized in the East.

VIOLATION OF LAW

60. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly, and constitute violations of international conventions, including the Hague Regulations, 1907; of the laws and customs of war; of the general principles of criminal law as derived from the criminal laws of all civilized nations; of the internal penal laws of the countries in which such crimes were committed; and of Article II of Control Council Law No. 10.

COUNT SEVEN—WAR CRIMES AND CRIMES AGAINST HUMANITY: SLAVE LABOR

61. The defendants von Weizsaecker, Steengracht von Moyland, Woermann, Lammers, Stuckart, Ritter, Veesenmayer, Berger, Darré, Koerner, Pleiger, Kehrl, Puhl, and Rasche, with divers other persons, during the period from March 1938 to May 1945, committed war crimes and crimes against humanity as defined by Article II of Control Council Law No. 10, in that they participated in enslavement and deportation to slave labor on a gigantic scale of members of the civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by, the Third Reich; enslavement of concentration camp inmates including German nationals; the use of prisoners of war in war operations and work having a direct relation to war operations; and the ill-treatment, terrorization, torture, and murder of enslaved persons, including prisoners of war. The defendants committed war crimes and crimes against humanity in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with, the commission of war crimes and crimes against humanity.

62. The acts and conduct referred to above were carried out as part of the slave labor program of the Third Reich, which was deliberately and carefully planned both to maintain German military power and to weaken the countries and territories occupied by Germany. The resources and needs of the occupied countries were completely disregarded in the execution of these plans and enterprises, as were the family honor and rights of the civilian populations involved. In many instances the work assigned was of a nature which compelled the laborers to assist military opera-

tions against their own countries; prisoners of war were often compelled to work on projects directly related to war operations. At least five million workers were deported to Germany. Other inhabitants of occupied countries were conscripted and compelled to work in their own countries to assist the German war economy. In many cases labor was secured through fraud or by drastic and violent methods, among which were included systematic impressment in the streets and police invasions of homes. Persons deported were transferred under armed guard, often packed in trains under cruel and degrading conditions without adequate heat, food, clothing, or sanitation. Millions of persons, including women and children, were subjected to such labor under cruel and inhumane conditions including lack of adequate food or decent shelter, which resulted in widespread suffering and many deaths. The treatment of slave labor and prisoners of war was based on the principle that they should be fed, sheltered, and treated in such a way as to exploit them to the greatest possible extent at the lowest expenditure.

63. The defendants charged in this count participated in the program of the German Government, in the planning of the program, in effecting deportations, in allocating laborers, and in the enslavement and mistreatment of the laborers in the course of their employment. To achieve the Third Reich's goals, the close cooperation of numerous ministries, agencies, and industrial enterprises was necessary. The defendant Lammers coordinated the activities of the various Nazi agencies involved, resolved their jurisdictional disputes, and served as liaison between these agencies and Hitler. In such capacities the defendant Lammers presided at major conferences on the labor problem where he mediated conflicting views and offered his own suggestions to the direct administrators of the program, such as Sauckel. His influence in slave labor matters was consistently exercised in the direction of the strongest execution of the enslavement program. On 21 March 1942 the defendant Lammers, with Hitler and Keitel, signed legislation appointing Sauckel as Plenipotentiary General for the Allocation of Labor and directing Sauckel to use all available labor including foreign workers and prisoners of war and to mobilize still unreached manpower in Germany and the occupied territories. The defendants Lammers, Stuckart and Berger participated in the formulation, drafting and issuance of laws and decrees which regulated the wages and conditions of employment of slave labor, and the defendants Lammers and Stuckart also determined the respective priorities of labor recruitment drives. At an important manpower conference in July 1944, where, with the defendant Lammers presiding, the in-

troduction of more ruthless methods of conscription and exploitation of slave labor was discussed, the defendant Steengracht von Moyland stated that continuous political and diplomatic pressure would be maintained on the puppet and satellite governments to secure their maximum cooperation in effecting these measures.

64. In the planning and execution of the slave labor program the German Foreign Office was principally responsible for obtaining the consent, by political and diplomatic pressure, coercion and intimidation, of satellite governments and others dominated by Germany, to the conscription and deportation of workers to Germany. The defendants von Weizsaecker, Steengracht von Moyland, Woermann, Ritter, and Veesenmayer supported and effected such transfers and deportations on a large scale. Their participation in the slave labor program included securing the enactment of compulsory labor laws for occupied and satellite countries, conducting negotiations and bringing pressure upon these governments to send workers to Germany, urging military commanders in the occupied territories to fill manpower quotas, giving "legal" advice and justifications to German authorities, defending or concealing the character of the labor program from the inquiries of neutral States acting as protecting powers, and sanctioning the use of prisoners of war in war operations.

65. The defendant Berger participated in the planning and execution of the enslavement and subsequent deportation of the civilian population of the Occupied Eastern Territories to the Reich. Military and police battalions were recruited by the defendant Berger for the purpose of effecting such conscriptions and deportations. The defendant Berger, in cooperation with the defendants Lammers and Stuckart participated in the execution of plans for the forcible seizure and impressment of young persons, without regard for age, sex, or work status, into the service of pseudo-military organizations, variously known as "SS Airforce Helpers," "SS Trainees," "SS Helpers," and "Airforce Helpers." In the so-called "Heu-Aktion," which was a part of the same program, thousands of boys and girls, ten to fifteen years old, were conscripted and deported to the Reich to work in German armament industry. Further, the mobilization of labor of prisoners of war was organized by the defendant Berger in cooperation with Pohl, Chief of the SS Economic and Administrative Main Office.

66. The defendant Darré directed and supervised staffs which regulated the entire agricultural economy of Germany and guided and controlled the individual conduct of millions of German farmers and their employees.

Shortly after the invasion of Poland, the defendant Darré actively sought a million or more Polish workers to be used on German farms, and, through his representatives in the General Council of the Four Year Plan, brought pressure upon Hans Frank, Governor General for Occupied Poland, to have this demand for labor satisfied, suggesting forcible and violent measures for "recruitment" where necessary. Deputies of the defendant Darré were dispatched to the Government General to guarantee that the deportations would be carried out promptly. During the war years the demands of the defendant Darré for more slave labor were unremitting and hundreds of thousands of persons were deported for the uses of German agriculture. The defendant Darré advocated a most ruthless treatment of slave laborers employed by German farmers, in full accordance with the racial precepts and standards of National Socialism. With full knowledge of the actual treatment which was being meted out to slave laborers, the defendant Darré, directly and through his agencies, protested against leniency in the treatment of these "racial enemies," transmitted SS and Nazi Party instructions and warnings to German farmers against human feeling toward the slave workers, recommended corporal punishment to discourage laziness or refractory attitudes, and suggested that the facilities of the SS and the Gestapo be used to maintain good discipline. The defendant Darré was responsible for the German food rationing program, administered by the Reich Food Offices as part of the Reich Ministry of Food and Agriculture. Foreign workers and prisoners of war were given semistarvation rations under this program. Within the slave labor group further discriminatory classification along "racial" lines was enforced to the detriment of Poles, Jews, and Russians, both civilians and prisoners of war. As a result of this policy, large numbers of foreign workers were starved to death, others suffered and died from diseases induced by nutritional deficiencies, and others suffered and are suffering from permanent physical impairment.

67. The defendant Koerner, during the period from September 1939 to May 1945, was permanent deputy to Goering as Plenipotentiary of the Four Year Plan, charged with the task of representing Goering in all current activities of the Four Year Plan, which, among other things, was concerned with the recruitment and allocation of manpower. The defendant Koerner participated actively in the formulation and execution of the program for forced recruitment, enslavement and exploitation of foreign workers, and the use and exploitation of prisoners of war in work related directly to war operations. As Chairman of the General Council for the Four Year Plan, during the period from Decem-

ber 1939 to 1942, the defendant Koerner dealt with questions of labor conscription and allocation, including the use of forced foreign labor. The General Council had the task of planning and supervising the work of Four Year Plan divisions, and its influence, under the leadership of the defendant Koerner, was important in the slave-labor program. The defendant Koerner, during the period from April 1942 to April 1945, was a member of the Central Planning Board, which had supreme authority for the scheduling of production and the allocation and development of raw materials in the German war economy. The Central Planning Board determined the labor requirements of industry, agriculture and all other sections of the German economy and made requisitions for and allocations of such labor. The defendant Koerner had full knowledge of the illegal manner in which foreign workers were conscripted and prisoners of war were utilized to meet such requisitions, and of the unlawful and inhumane conditions under which they were exploited. He attended the meetings of the Central Planning Board, participated in its decisions and in the formulation of basic policies with reference to the exploitation of such labor.

68. The defendant Kehrl, during the period from September 1943 to May 1945, was Chief of the Planning Office of the Central Planning Board and Chief of the Planning Office of the Reich Ministry of Armament and War Production, in which capacities, among others, he participated actively in the formulation and execution of the slave labor program of the Third Reich. His activities included arrangements for, attendance at, and participation in meetings of the Central Planning Board; submittal of proposed assignments of manpower to industry, agriculture and other sectors of the German economy to the Board for decision; and preparation of the decisions of the Board and supervision over their execution. With full knowledge of the nature of the slave labor program, the defendant Kehrl advocated and participated in numerous measures involving the forced recruitment and exploitation of foreign workers, and the use and exploitation of prisoners of war in work directly related to war operations.

69. The defendant Pleiger, during the period from approximately March 1941 until May 1945, was Chairman of the Praesidium (governing board) of the Reichsvereinigung Kohle (commonly known as the "RVK"), an official agency for the regulation of the entire German coal industry. This organization was given wide powers by the government and exercised important functions with respect to the procurement, allocation, use and treatment of slave labor, including prisoners of war. The influence and control which this organization had over a large segment of German in-

dustry, in which vast numbers of such laborers were forced to work, made it an important agency in the formulation and administration of the slave labor program. The defendant Pleiger was the dominant figure in the RVK and chief participant in the formulation and execution of policies designed to procure, enslave, and exploit such labor. As head of the RVK, the defendant Pleiger presented the manpower requirements of the coal industry to the Central Planning Board and urged the recruitment and allocation of ever-increasing numbers of slave laborers to the coal mines. He sought out and recruited foreign workers, prisoners of war and concentration camp labor through the Third Reich and satellite governments and agencies, the German military forces, the SS, and elsewhere.

70. The defendants Pleiger and Koerner held numerous key positions and were the leading figures in the Hermann Goering Works, a vast Reich-owned industrial empire, the activities of which, among other things, ranged over nearly every branch of mining and heavy industry, and many branches of armament production. The Hermann Goering Works used many thousands of foreign laborers, prisoners of war and concentration camp inmates. In the course of the use of forced labor in enterprises of the Hermann Goering Works, the workers were exploited under inhuman conditions with respect to their personal liberty, shelter, food, pay, hours of work, and health. Repressive measures were used to force these workers to enter, or remain in, involuntary servitude. Prisoners of war were used in work having a direct relation to war operations and in unhealthful and dangerous work. The defendants Pleiger and Koerner were active in recruiting slave labor including prisoners of war for these enterprises. The defendant Pleiger made arrangements for joint enterprises between the SS and the Hermann Goering Works, involving the use of concentration camp workers in such enterprises.

71. The defendants Puhl and Rasche were active in financing enterprises which, to their knowledge, were primarily created to exploit slave labor. Beginning in 1939 the defendant Puhl, acting directly, through the instrumentality of the Reichsbank and otherwise, conducted negotiations with the SS concerning a loan of eight million reichsmarks (RM 8,000,000) to the Deutsche Erd- und Steinwerke (commonly known as the DEST), an SS economic subsidiary which was explicitly designed to utilize concentration camp labor for the purposes of the Four Year Plan. Upon the recommendation of the defendant Puhl, this loan was granted by the Golddiskontbank. Thereafter, he further assisted the DEST in securing additional large loans, obtaining reductions

in interest rates on such loans and receiving extensions of time for repayment. The defendant Rasche took a leading role, in conjunction with Emil Meyer, his colleague in the SS, the "Circle of Friends," and the Vorstand of the Dresdner Bank, in sponsoring, supporting, approving, and obtaining approval for loans totaling millions of reichsmarks to enterprises which used concentration camp labor on a wide scale and under inhumane conditions. The enterprises to which such loans were made included numerous industries and services maintained and operated throughout Germany and the occupied countries by the Economic and Administrative Main Office (Wirtschafts- und Verwaltungshauptamt, commonly known as the WVHA), which was a main department of the SS charged with the operation, maintenance, administration and establishment of concentration camps. In many instances the loans were unsecured and in other instances secured only by a so-called "declaration of the Reichsfuehrer SS."

VIOLATION OF LAW

72. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly, and constitute violations of international conventions, including the Hague Regulations, 1907, and the Prisoner of War Convention, Geneva, 1929; of the laws and customs of war; of the general principles of criminal law as derived from the criminal laws of all civilized nations; of the internal penal laws of the countries in which such crimes were committed; and of Article II of Control Council Law No. 10.

COUNT EIGHT—MEMBERSHIP IN CRIMINAL ORGANIZATIONS

73. The defendants von Weizsaecker, Keppler, Bohle, Woermann, Veesenmayer, Lammers, Stuckart, Darré, Dietrich, Berger, Schellenberg, Rasche, Kehrl, and Koerner, are charged with membership, subsequent to 1 September 1939, in the Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (commonly known as the SS), declared to be criminal by the International Military Tribunal, and paragraph 1(*d*) of Article II of Control Council Law No. 10.

74. The defendant Schellenberg is charged with membership, subsequent to 1 September 1939, in the Sicherheitsdienst des Reichsfuehrers SS (commonly known as the SD), declared to be criminal by the International Military Tribunal, and paragraph 1(*d*) of Article II of Control Council Law No. 10.

75. The defendants Bohle, Darré, Dietrich, and Keppler are charged with membership, subsequent to 1 September 1939, in

categories of the Leadership Corps of the Nazi Party, declared to be criminal by the International Military Tribunal, and paragraph 1 (*d*) of Article II of Control Council Law No. 10.

Wherefore, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to the MILITARY TRIBUNALS.

Nuernberg, 15 November 1947

TELFORD TAYLOR
Brigadier General, USA
Chief of Counsel for War Crimes
Acting on Behalf of the
United States of America

II. ARRAIGNMENT

Official Transcript of the American Military Tribunal IV A in the matter of the *United States of America* vs. *Ernst von Weizaecker, et al,* defendants, sitting at Nuernberg, Germany, on 20 December 1947, 1000–1040, Justice William C. Christianson, presiding.*

THE MARSHAL: The Honorable, the Judges of Military Tribunal IV A.

Military Tribunal IV A is now in session. God save the United States of America and this honorable Tribunal.

PRESIDING JUDGE CHRISTIANSON: The Tribunal will now proceed with the arraignment of the defendants in Case 11 now pending before this Tribunal. Mr. Secretary General, will you call the roll of the defendants?

THE SECRETARY GENERAL: [Colonel John E. Ray] Each defendant will rise and answer "present" when his name is called. He will then remain standing until the roll call has been completed.

Defendant Ernst von Weizsaecker
Defendant Gustav Adolf Steengracht von Moyland
Defendant Wilhelm Keppler
Defendant Ernst Wilhelm Bohle
Defendant Ernst Woermann
Defendant Karl Ritter
Defendant Otto von Erdmannsdorff
Defendant Edmund Veesenmayer
Defendant Hans Heinrich Lammers
Defendant Wilhelm Stuckart
Defendant Richard Walther Darré
Defendant Otto Meissner

May it please the Tribunal, the Marshal has informed me that Otto Meissner is sick in the hospital.

Defendant Otto Dietrich
Defendant Gottlob Berger
Defendant Walter Schellenberg
Defendant Lutz Schwerin von Krosigk
Defendant Emil Puhl
Defendant Karl Rasche
Defendant Paul Koerner
Defendant Paul Pleiger
Defendant Hans Kehrl

All the defendants will be seated.

PRESIDING JUDGE CHRISTIANSON: Mr. Secretary General, you will now call the defendants one by one for the arraignment.

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* This caption, with the necessary changes in dates and time, appeared at the top of the first page of the transcript for each day of the proceedings. It will be omitted from all extracts of the transcript reproduced hereinafter.

The SECRETARY GENERAL: May it please this honorable Tribunal, the defendants are all present in the dock except Otto Meissner, sick in hospital.

Each defendant will rise when his name is called and answer the questions asked him by the Tribunal and speak directly into the microphone.

DR. KUBUSCHOK (counsel for defendant Rasche): I am speaking on behalf of most of the defense counsel, and I have submitted a motion to the Court requesting them to regard the indictment handed in by the prosecution as inadequate. I have been informed that the Tribunal will—

PRESIDING JUDGE CHRISTIANSON: Just a moment, counsel. Are you intending to speak on the merits of a motion this morning relative to the indictment?

DR. KUBUSCHOK: The Secretary General has informed me that the Tribunal does not wish me to discuss the motion today. I shall, therefore, confine myself to announce the motion here in Court and hand it to the Secretary General.

In this motion, I have further stated that the individual defense counsel will deal with those counts referring to their defendants and will show that they do not regard the indictment to be duly substantiated. I would like to point out briefly that the motion claims that the indictment does not substantiate the counts of the indictment sufficiently and that therefore the defendants are scarcely in a position to plead guilty or not guilty, in such a way as should correspond with the seriousness of this trial.

PRESIDING JUDGE CHRISTIANSON: We are glad to be advised that the motion has been made, but we will not hear an argument on the merits this morning. Prosecution counsel, of course, is entitled to a period in which to answer. We have not received the motions as yet. The Court does not have them before us; so, further than advising us that a motion has been made, we will not entertain any argument on that sort of motion this morning. Your motion will receive consideration when filed and when answered within the proper time by the prosecution counsel.*

DR. KARL HAENSEL (counsel for defendant Steengracht von Moyland): May it please the Tribunal, may I draw the Tribunal's attention to the fact that if the defendants are now to plead guilty or not guilty, they will rely on the summons which they

* The Tribunal, by written order of 5 January 1948, denied this and similar motions. In describing these motions in a memorandum attached to the order, the Tribunal said: "The defendants by a general motion and by divers individual motions have attacked the sufficiency of the indictment and in some instances have filed motions asking that the same be made more definite and certain in respect both to the general charges and their individual connection therewith."

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received yesterday. This summons says that they are to reply to the indictment of the Secretary General of 4 November 1947. I do not know whether it is intended that the later indictment, dated 17 November, has been passed over; whether, in other words, the old indictment of 4 November has perhaps been revived and the new one has been dropped. Perhaps a statement could be made about this before the defendants plead guilty or not guilty.

PRESIDING JUDGE CHRISTIANSON: I think we will hear prosecution counsel for just a moment on that.

GENERAL TAYLOR: May it please the Court, the prosecution has filed a statement with the Tribunal that the amended indictment of 15 November supersedes and replaces the one filed on 1 November, and the indictment filed on 1 November is to be disregarded.[1] A written statement to this effect was filed with the Tribunal at the time of the amended indictment.

PRESIDING JUDGE CHRISTIANSON: Mr. Secretary General, I think you may proceed with the calling of the defendants. Just a moment, apparently the defense counsel wish to say something.

DR. BECKER (counsel for defendant von Weizsaecker): I beg to make the motion to appoint Mr. Warren E. Magee, attorney of Washington as codefense counsel for Mr. von Weizsaecker. I have brought along an exact explanation as to why I make this motion and shall hand it to the Court.[2]

PRESIDING JUDGE CHRISTIANSON: We will not pass on that matter at the moment. You are representing the defendant named now, are you not?

DR. BECKER: Yes.

DR. ELISABETH GOMBEL (associate counsel for the defendant Bohle): First I want to excuse Dr. Achenbach who has not been in a position to come into Court today, because his driver and one of his secretaries were killed in a car accident at Neustadt last night.

PRESIDING JUDGE CHRISTIANSON: Are you representing him?

DR. GOMBEL: Yes. I am representing him, I am his assistant defense counsel.

PRESIDING JUDGE CHRISTIANSON: That will be noted.

DR. GOMBEL: On behalf of my client, I herewith submit to the record of the Court a motion to strike the counts which in the indictment are not sufficiently substantiated.

PRESIDING JUDGE CHRISTIANSON: That will be taken up in the

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[1] The indictment reproduced in section I, above, is the indictment of 15 November 1947. Dr. Haensel, in referring to "the later indictment, dated 17 November", probably meant the indictment dated 15 November 1947 which was filed 18 November 1947.

[2] By a Tribunal order of 29 December 1947, Mr. Warren E. Magee, an American attorney, was approved as "additional counsel" for defendant von Weizsaecker.

usual course. Now, Mr. Secretary General, you may proceed.

THE SECRETARY GENERAL: Each defendant will rise when his name is called and answer the questions asked him by the Tribunal and speak directly into the microphone.

Defendant Ernst von Weizsaecker.

PRESIDING JUDGE CHRISTIANSON: Defendant Ernst von Weizsaecker, have you counsel?

ERNST VON WEIZSAECKER: Would you please repeat that?

PRESIDING JUDGE CHRISTIANSON: Have you counsel to represent you?

ERNST VON WEIZSAECKER: Yes.

PRESIDING JUDGE CHRISTIANSON: Has the indictment in the German language been served upon you at least 30 days ago?

ERNST VON WEIZSAECKER: Yes.

PRESIDING JUDGE CHRISTIANSON: Have you read the indictment?

ERNST VON WEIZSAECKER: Yes.

PRESIDING JUDGE CHRISTIANSON: Defendant Ernst von Weizsaecker, how do you plead to this indictment, guilty or not guilty?

ERNST VON WEIZSAECKER: Will you please repeat? I didn't understand you. You are speaking too fast.

PRESIDING JUDGE CHRISTIANSON: How do you plead to this indictment, guilty or not guilty?

ERNST VON WEIZSAECKER: I am not guilty.

PRESIDING JUDGE CHRISTIANSON: You may be seated.

[At this point the same questions were asked of the defendants Steengracht von Moyland, Keppler, Bohle, Woermann, Ritter, von Erdmannsdorff, Veesenmayer, Lammers, Stuckart, and Darré. Each defendant indicated that he had received the indictment in the German language at least 30 days previously, that he had read the indictment, and that he was represented by counsel, and each pleaded not guilty to the indictment*.]

DR. SAUTER (counsel for defendant Otto Meissner): The defendant Dr. Meissner should be the next one to be called in the dock. He is in a rather special position. It was only last month that he was operated on his eyes and he is now hospitalized. I saw him yesterday and I asked him how he intended to plead today. He requested me and authorized me to declare here on his behalf that he received the indictment more than 30 days ago, that it was read to him, and that he wishes to plead here that he is not guilty. This is the statement I wish to make on behalf of Dr. Meissner, who is absent.

* On 27 March 1948, counsel for the defendant Bohle filed a motion to change his plea of not guilty on all counts to a plea of guilty with respect to paragraphs 38 and 40 of count five and with respect to count eight. By subsequent motion on 1 June 1948, this motion was amended so that the defendant pleaded guilty only to count eight. On 27 May 1948 the prosecution filed a motion to strike the charges against Bohle in counts one, two, and six. On 1 June 1948, the Tribunal, by formal written order, accepted Bohle's revised plea of guilty on count eight and dismissed the charges against Bohle as contained in count one, two, and six.

If the Tribunal please, I would appreciate it if in this connection I would be allowed to make a motion on behalf of Dr. Meissner connected with the further proceedings of his case. I stated before that the defendant Dr. Meissner was recently operated on his eyes and in January or February he will have to undergo a second operation on his eyes, which will be the main operation, because otherwise there is danger of complete blindness. He, therefore, will not be in a position in the next few weeks to appear in Court here, and I, therefore, on behalf of Dr. Meissner, beg to make the motion that the Tribunal would kindly excuse Dr. Meissner from being present in these proceedings. I shall take care that Dr. Meissner will daily be informed either through me or through one of my assistants, of the records of these proceedings and also of the documents submitted by the prosecution. They will be read to him. He will then either tell me or one of my assistants what his comments are regarding these documents. He will dictate these things to me; otherwise there is no practical possibility of taking care of his case. This is how we shall be certain that at some time to come when Dr. Meissner's health will permit, he will be able to appear in person before this Tribunal and testify on the witness stand. This is how we shall on the one hand not prevent these proceedings from taking their course, and on the other, the interests of the defendant Dr. Meissner will be suitably safeguarded.

I believe that the prosecution, in view of these conditions, will be agreeable to this idea, and I should be grateful to the Tribunal if they would express their agreement to this suggestion. I shall also inform the Court as soon as Dr. Meissner will be in a position to appear before this Tribunal and I shall see to it that this will occur as soon as possible.

JUDGE POWERS: Does the prosecution have anything to say on this motion?

GENERAL TAYLOR: The prosecution, of course, has no objection to any course that the medical authorities recommend to the Tribunal as necessary. We think that in the defendant's own interests he should be present in the Court as much as is possible under the medical circumstances, but beyond that, we concur with Dr. Sauter's recommendation.

JUDGE POWERS: I understand that the introduction of evidence will not be taken up for several days in any event, and the Court will take this matter under advisement and confer with counsel about their conclusions if that is agreeable.

DR. SAUTER: Thank you very much, Your Honor.

PRESIDING JUDGE CHRISTIANSON: I understand that the prosecution then wishes the Court to receive the plea of Dr. Meissner in his absence by his counsel?

GENERAL TAYLOR: Yes, Your Honor, with the further suggestion that when the defendant is able to appear in Court, the plea should be taken again so that it is entered in the record in his own person.

DR. SAUTER: Of course. Thank you very much, Your Honor.

JUDGE POWERS: You may proceed.

[At this point the same questions as those asked of the defendant Weizsaecker above were asked of the defendants Dietrich, Berger, Shellenberg, Schwerin von Krosigk, Puhl, Rasche, Koerner, Pleiger, and Kehrl. Each defendant indicated that he had received the indictment in the German language at least 30 days previously, that he had read the indictment, and that he was represented by counsel, and each pleaded not guilty to the indictment.]

The pleas of the defendants will be entered by the Secretary General in the records of this Tribunal.

THE SECRETARY GENERAL: Yes, Your Honor.

JUDGE MAGUIRE: It is the intention of the Tribunal to recess until 6 January. At that time it is our understanding that the prosecution will be ready to make its opening statement. Immediately following the completion of the opening statements the Tribunal expects the prosecution to be ready to proceed with the submission of its case.

Accordingly, the Tribunal will be in recess to 6 January 1948 at nine-thirty.

THE MARSHALL: The Tribunal will recess until 0930 hours, 6 January 1948.

(Tribunal IV A in recess until 6 January 1948, at 0930 hours.)

III. UNIFORM RULES OF PROCEDURE ADOPTED BY THE TRIBUNAL

A. Introduction

The first 14 volumes of this series are devoted principally to substantive matters arising in the twelve Nuernberg trials held subsequent to the trial before the International Military Tribunal. (See the list of cases and volumes under "Trials of War Criminals Before Nuernberg Military Tribunals" just following the "Contents" of this volume.) Volume XV, on the other hand, contains materials from the records of the Nuernberg trials concerned mainly with procedure or the adjective side of these trials. Therefore the present section, the only section of this volume devoted specifically to procedure, contains only the so-called "Uniform Rules of Procedure" adopted by the Tribunal on 8 February 1948. These Uniform Rules by no means indicate the ramifications of procedural matters arising during the trial, but they are of special importance in connection with such basic matters as the general order of trial, the representation of defendants by counsel, the procurement of evidence, and similar matters.

B. Tribunal Order Approving and Adopting Uniform Rules of Procedure, Military Tribunals, Nuernberg, as Revised to 8 January 1948

ORDER

United States Military Tribunal IV and the judges constituting said Tribunal, pursuant to Military Government Ordinance No. 7, Article V (*f*), hereby approves and adopts the attached "Uniform Rules of Procedure, Military Tribunals, Nuernberg," dated 8 January 1948, which said rules of practice and procedure are made a part of this order by reference.

8 February 1948

C. Uniform Rules of Procedure, Military Tribunals, Nuernberg, Revised to 8 January 1948*

OFFICE OF MILITARY GOVERNMENT (US)

Uniform Rules of Procedure

Military Tribunals

Nuernberg

Revised to 8 January 1948

RULES OF PROCEDURE FOR MILITARY TRIBUNAL

Rule 1. Authority to Promulgate Rules

The present rules of procedure of the Military Tribunal constituted by General Order No. 68 of the Office of Military Government for Germany (U.S.) hereinafter called "Military Tribunal IV A" or "the Tribunal", are hereby promulgated by the Tribunal in accordance with provision of Article V (*f*) of Military Government Ordinance No. 7 issued pursuant to the powers conferred by Control Council Law No. 10.

Rule 2. Languages in Which Pleading, Documents, and Rules Shall be Transcribed

When any Rule of Procedure adopted by Military Tribunal IV A directs or requires that a defendant in any position before the Tribunal shall be furnished with a copy of any pleading, document, rule, or other instrument in writing, such Rule shall be understood to mean that such defendant shall receive a true and correct copy of such pleading, document, rule, or other instrument, written in the English language, and also a written translation thereof in a language which the defendant understands.

Rule 3. Notice to Defendants

(*a*) The Marshal of Military Tribunals, or his duly authorized deputy, shall make service of the indictment upon a defendant

* From time to time the Committee of Presiding Judges of the Military Tribunals sitting in Nuernberg adopted rules of practice and procedure. In an Executive Session of 5 February 1948, the Committee of Presiding Judges adopted the Uniform Rules as revised to 8 January 1948 and stated: "The Committee further recommends that said rules of practice and procedure be also approved and adopted by the several Tribunals presently constituting said United States Military Tribunals." The Tribunal in the Ministries case adopted these rules on 8 February 1948 (section B, above) and hence they were applicable throughout most of the trial. Prior to 8 February 1948, the Uniform Rules as revised to 3 June 1947 were in effect. On 7 January 1948, the day following the prosecution's opening statement, Presiding Judge Christianson stated: "The Court wishes to announce that the rules, the revised rules of uniform procedure adopted and revised—to 3 June 1947, I believe—will be the rules of the Court, until otherwise modified or amended." *(Tr. p. 154)*. The Uniform Rules as revised to 3 June 1947 are not reproduced herein.

in any prosecution before the Tribunal by delivering to and leaving with him (1) a true and correct copy of the indictment and of all documents lodged with the indictment, (2) a copy of Military Government Ordinance No. 7, (3) a copy of Control Council Law No. 10, and (4) a copy of these Rules of Procedure.

(*b*) When such service has been made as aforesaid, the Marshal shall make a written certificate of such fact, showing the day and place of service, and shall file the same with the Secretary General of Military Tribunals.

(*c*) The certificate, when filed with the Secretary General, shall constitute a part of the record of the case.

Rule 4. Time Intervening Before Service and Trial

A period of not less than thirty days shall intervene between the service of the indictment upon a defendant and the day of his trial pursuant to the indictment.

Rule 5. Notice of Amendments or Additions to Original Indictment

If before the trial of any defendant the Chief of Counsel for War Crimes offers amendments or additions to the indictment, such amendments or additions, including any accompanying documents, shall be filed with the Secretary General of Military Tribunals and served upon such defendant in like manner as the original indictment.

Rule 6. Defendant to Receive Certain Additional Documents on Request

(*a*) A defendant shall receive a copy of such Rules of Procedure, or amendments thereto as may be adopted by the Tribunal from time to time.

(*b*) Upon written application by a defendant or his counsel, lodged with the Secretary General for a copy of (1) the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945, or (2) the judgment of the International Military Tribunal of 30 September and 1 October 1946, the same shall be furnished to such defendant, without delay.

Rule 7. Right to Representation by Counsel

(*a*) A defendant shall have the right to conduct his own defense, or to be represented by counsel of his own selection, provided such counsel is a person qualified under existing regulations to conduct cases before the courts of defendant's country, or is specially authorized by the Tribunal.

(*b*) Application for particular counsel shall be filed with the Secretary General, promptly after service of the indictment upon the defendant.

(*c*) The Tribunal will designate counsel for any defendant who fails to apply for particular counsel, unless the defendant elects in writing to conduct his own defense.

(*d*) Where particular counsel is requested by a defendant but is not available or cannot be found within 10 days after application therefor has been filed with the Secretary General, the Tribunal will designate counsel for such defendant, unless the defendant elects in writing to conduct his own defense. If thereafter, before trial, such particular counsel is found and is available, or if in the meanwhile a defendant selects a substitute counsel who is found to be available, such particular counsel, or substitute, may be associated with or substituted for counsel designated by the Tribunal; provided that (1) only one counsel shall be permitted to appear at the trial for any defendant, except by special permission of the Tribunal, and (2) no delay will be allowed for making such substitution or association.

Rule 8. Order at the Trial

In conformity with and pursuant to the provisions of Articles IV and VI of Military Government Ordinance No. 7, the Tribunal will provide for maintenance of order at the trial.

Rule 9. Oath: Witnesses

(*a*) Before testifying before the Tribunal each witness shall take such oath or affirmation or make such declaration as is customary and lawful in his own country.

(*b*) When not testifying, the witness shall be excluded from the courtroom. During the course of any trial, witnesses shall not confer among themselves before or after testifying.

Rule 10. Motions and Applications (except for witnesses and documents)

(*a*) All motions, applications (except applications for witnesses and documents) and other requests addressed to the Tribunal shall be filed with the Secretary General of Military Tribunals, at the Palace of Justice, Nuernberg, Germany.

(*b*) When any such motion, application or other request is filed by the prosecution there shall be filed therewith five copies in English and two copies in German; when filed by the defense there shall be filed therewith one copy in German to which shall be added by the Secretary General eight copies in English.

(*c*) The Secretary General shall deliver a translated copy of such motion, application or other request to the adverse party

and note the fact of delivery, specifying the date, hour and place upon the original. The adverse party shall have 72 hours after delivery to file with the Secretary General his objections to the granting of such motion, application or other request. If no objection is filed, the Presiding Judge of the Tribunal will make the appropriate order on behalf of the Tribunal. If objections are filed, the Tribunal will consider the objections and determine the questions raised.

(*d*) Delivery of a copy of any such motion, application, or other request to counsel of record for the adverse party shall constitute delivery to such adverse party.

Rule 11. Rulings During the Trial

The Tribunal will rule upon all questions arising during the course of the trial. If such course is deemed expedient, the Tribunal will order the clearing or closing of the courtroom while considering such questions.

Rule 12. Production of Evidence for a Defendant

(*a*) A defendant may apply to the Tribunal for the production of witnesses or of documents on his behalf, by filing his application therefor with the Secretary General of Military Tribunals. Such application shall state where the witness or document is thought to be located, together with the last known location thereof. Such application shall also state the general nature of the evidence sought to be adduced thereby, and the reason such evidence is deemed relevant to the defendant's case.

(*b*) The Secretary General shall promptly submit any such application to the Tribunal, and the Tribunal will determine whether or not the application shall be granted.

(*c*) If the application is granted by the Tribunal, the Secretary General shall promptly issue a summons for the attendance of such witness or the production of such documents, and inform the Tribunal of the action taken. Such summons shall be served in such manner as may be provided by the appropriate occupation authorities to insure its enforcement, and the Secretary General shall inform the Tribunal of the steps taken.

(*d*) If the witness or the document is not within the area controlled by the United States Office of Military Government for Germany, the Tribunal will request through proper channels that the Allied Control Council arrange for the production of any such witness or document as the Tribunal may deem necessary to the proper presentation of the defense.

Rule 13. Records, Exhibits and Documents

(*a*) An accurate stenographic record of all oral proceedings shall be maintained, exhibits shall be suitably identified and

marked as the Tribunal may direct. All exhibits and transcripts of the proceedings, and such other material as the Tribunal may direct, shall be filed with the Secretary General and shall constitute a part of the record of the case.

(*b*) Documentary evidence or exhibits may be received in the language of the document, but a translation thereof into a language understood by the adverse party shall be furnished to such party.

(*c*) Upon proper request, and approval by the Tribunal, copies of all exhibits and transcripts of proceedings, and such other matter as the Tribunal may direct to be filed with the Secretary General, and all official acts and documents of the Tribunal, may be certified by said Secretary General to any government, to any other tribunal, or to any agency or person as to whom it is appropriate that copies of such documents or representations as to such acts be supplied.

Rule 14. Withdrawal of Exhibits and Documents, and Substitution of Photostatic Copies Therefor

If it be made to appear to the Tribunal by written application that one of the government signatories to the Four Power Agreement of 8 August 1945, or any other government having received the consent of the said four signatory powers, desires to withdraw from the records of any cause, and preserve any original document on file with the Tribunal, and that no substantial injury will result thereby, the Tribunal may order any such original document to be delivered to the applicant, and a photostatic copy thereof, certified by the Secretary General, to be substituted in the record therefor.

Rule 15. Opening Statement for Prosecution

The prosecution may be allowed, for the purpose of making the opening statement, time not to exceed one trial day. The chief prosecutor may allocate this time between himself and any of his assistants as he may wish.

Rule 16. Opening Statement for Defense

When the prosecution rests its case, defense counsel will be allotted 2 trial days within which to make their opening statement, which will comprehend the entire theory of their respective defenses. The time allotted will be divided between defense counsel as they may themselves agree. In the event that defense counsel cannot agree, the Tribunal will allot the time not to exceed 30 minutes to each defendant.

Rule 17. Prosecution to File Copies of Exhibits—Time for Filing

The prosecution, not less than 24 hours before it desires to

offer any record, document, or other writing in evidence as part of its case-in-chief, shall file with the defendant's information center not less than one copy of each record, document, or writing for each of the counsel for defendants, such copy to be in the German language. The prosecution shall also deliver to defendants' information center at least four copies thereof in the English language.

Rule 18. Copies of all Exhibits to be Filed with Secretary General

When the prosecution or any defendant offers a record, document, or other writing or a copy thereof in evidence, there shall be delivered to the Secretary General, in addition to the original of the document or other instrument in writing so offered for admission in evidence, six copies of the document. If the document is written or printed in a language other than the English language, there shall also be filed with the copies of the document above referred to, six copies of an English translation of the document. If such document is offered by any defendant, suitable facilities for procuring English translations of that document shall be made available to the defendant.

Rule 19. Notice to Secretary General Concerning Witnesses

At least 24 hours before a witness is called to the stand either by the prosecution or by any defendant, the party who desires the testimony of the witness shall deliver to the Secretary General an original and six copies of a memorandum which shall disclose: (*a*) the name of the witness; (*b*) his nationality; (*c*) his residence or station; (*d*) his official rank or position; (*e*) whether he is called as an expert witness or as witness to testify to the facts, and if the latter, a brief statement of the subject matter concerning which the witness will be interrogated. When the prosecution prepares such a statement in connection with a witness whom it desires to call, at the time of the filing of the foregoing statement two additional copies thereof shall be delivered to the defendant's information center. When a defendant prepares the foregoing statement concerning a witness whom he desires to call, the defendant shall, at the same time the copies are filed with the Secretary General, deliver one additional copy to the prosecution.

Rule 20. Judicial Notice

When either the prosecution or a defendant desires the Tribunal to take judicial notice of any official government document or report to the United Nations, including any act, ruling, or regulation of any committee, board, or council heretofore established by, or in the Allied nations for the investigation of war

crimes, or any record made by, or finding of, any military or other Tribunal of any of the United Nations, this Tribunal may refuse to take judicial notice of such document, rule or regulation unless the party proposing to ask this Tribunal to judicially notice such a document, rule or regulation, places a copy thereof in writing before the Tribunal.

Rule 21. Procedure for Obtaining Written Statements

Statements of witnesses made "in lieu of an oath" may be admitted in evidence if otherwise competent and admissible and containing statements having probative value if the following conditions are met.

(1) The witness shall have signed the statement before defense counsel, or one of them, and defense counsel shall have certified thereto; or

(2) The witness shall have signed the statement before a notary, and the notary shall have certified thereto; or

(3) The witness shall have signed the statement before a burgomaster, and the burgomaster shall have certified thereto, in case neither defense counsel nor a notary is readily available without great inconvenience; or

(4) The witness shall have signed the statement before a competent prison camp authority, and such authority shall have certified thereto in case the witness is incarcerated in a prison camp.

(5) The statement "in lieu of an oath" shall contain a preamble which shall state, "I, (name and address of the witness) after having first been warned that I will be liable for punishment for making a false statement in lieu of an oath and declare that my statement is true in lieu of an oath, and that my statement is made for submission as evidence before Military Tribunal IV A, Palace of Justice, Nuernberg, Germany, the following:"

(6) The signature of the witness shall be followed by a certificate stating: "the above signature of (stating the name and address of the witness) identified by (state the name of the identifying person or officer) is hereby certified and witnessed by me. (To be followed by the date and place of the execution of the statement and the signature and witness of the person or officer certifying the same.)"

Rule 22. Special Circumstances

If special circumstances make compliance with any one of the above conditions impossible or unduly burdensome, then defense counsel may make application to the Tribunal for a special order providing for the taking of the statement of desired witness concerning conditions to be completed within that specific instance.

Rule 23. Interviewing of Witnesses

In all cases where persons are detained in the Nuernberg jail either as witnesses or prospective witnesses, and counsel for the prosecution or the defense wish to interview or interrogate such witnesses, the following procedure shall be followed:

(1) Counsel desiring such interview or interrogation shall give at least 48 hours' notice in writing to the opposite side, stating the title of the case, the name of the witness and the date and hour of the proposed interview or interrogation and no more. The proposed interview shall not involve compensation for overtime. Prosecution shall give notice by filing such notice with the defense center. Defense counsel shall file such notice with defense center which shall give notice to the division of the prosecution concerned.

(2) In case the prosecution wishes to interview or interrogate such witness, counsel for the defendant or defendants involved shall have the right to be present. In case a defense counsel wishes to interview or interrogate such a witness, a representative of the prosecution shall be entitled to be present, but if the prosecution does not elect to be present at the time requested then the defense counsel may interview the witness without the presence of a representative of the prosecution.

(3) Defense information center shall have the right to make rules or regulations not inconsistent herewith for the purpose of facilitating the operations of this rule. Written copies of such rules or regulations shall be served on the prosecution and posted in defense information center.

(4) Original Rule 23 and Rule 23 as amended on 3 June 1947 are superseded hereby.

(5) This rule shall be effective on and after *14 January 1948*.

Rule 24. Effective Date and Powers of Amendment and Addition

These Rules shall take effect upon their approval by the Tribunal. Nothing herein contained shall be construed to prevent the Tribunal at any time in the interest of fair and expeditious procedure, from departing from, amending or adding to these rules, either by general rules or special orders for particular cases, in such form and on such notice as the Tribunal may prescribe.

Rule 25.

It is ordered that the foregoing rules be entered in the Journal of this Tribunal and that mimeographed copies be prepared sufficient in number for the use of the Tribunal and counsel.

Rule 26. Defense Counsel; Representing Multiple Defendants; Maximum Compensation

At no time shall defense counsel represent defendants, who have pleaded to the indictments, in more than two cases which are being tried concurrently in separate Tribunals. It is permissible, however, for the counsel to represent two or more defendants in the same case.

No adjournment or delay shall be granted any defendant upon the ground that his counsel is engaged in the trial of another case before a separate Tribunal.

In no event shall a defense attorney receive as compensation for his services in one or more cases an amount in excess of 7,000 reichsmarks per month.

IV. "BASIC INFORMATION" ON THE ORGANIZATION OF THE GOVERNMENT AND OF THE ECONOMIC SYSTEM OF THE THIRD REICH, THE NAZI PARTY, AND MISCELLANEOUS BACKGROUND MATERIAL

A. Introduction

The understanding of documents and testimony, and to a lesser extent the understanding of the arguments of the prosecution and defense, depends in part upon familiarity with the history and organization of Hitler's Third Reich. Just prior to the opening of the trial, the prosecution circulated to the members of the Tribunal and to defense counsel a memorandum in the nature of a brief. This memorandum, called simply "Basic Information", contains a wealth of material on such matters as important historical dates, the government structure, the economic system, the Nazi Party, important government leaders and their assistants, ranks and titles, and common abbreviations. Although much of the detail in parts of this Basic Information can be skipped over quickly on first reading, some of this same detail may be helpful for later reference when, in reading the subsequent text, the reader comes upon unfamiliar terms, titles, and similar matters.

Several parts of the Basic Information, such as a chart and a recital of certain findings made by the International Military Tribunal, have been omitted.

B. Extracts from the "Basic Information" Submitted by the Prosecution

BASIC INFORMATION

Submitted by the Office Chief of Counsel for War Crimes

3 January 1948

INTRODUCTION

This "Basic Information for Case 11" is made up in the form of a ready reference manual with a table of contents. Some of the items in the Basic Information, such as the charts, expositions, etc., are submitted for information and convenience. Many of the listings of membership in the governing bodies and main committees have been compiled from documents which will be offered in evidence later. However, it is not intended that the Basic Information itself will be considered as evidence.

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* Not reproduced herein.

I. IMPORTANT HISTORICAL DATES

Wichtige geschichtliche Daten

	1899
Hague Convention for Pacific Settlement of International Disputes. Hager Abkommen ueber die friedliche Beilegung von internationalen Streitfaellen.	July 29
	1907
Hague Convention for Pacific Settlement of International Disputes. Hager Abkommen ueber die friedliche Beilegung von internationalen Streitfaellen.	October 18
	1918
Founding of the German Republic. Gruendung der Deutschen Republik. Friedrich Ebert becomes first Reich President. Friedrich Ebert wird erster Reichspraesident.	November 9

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	1919
Signing of the Treaty of Versailles. Unterzeichnung des Vertrages von Versailles.	June 28
Acceptance of the Weimar Constitution. Annahme der Verfassung von Weimar.	August 11
	1920
Hitler promulgates the 25 points of the Program of the NSDAP. Hitler verkuendet die 25 Punkte des national-sozialistischen Programms.	February 24
	1921
Hitler becomes Fuehrer of the NSDAP. Hitler wird Fuehrer der NSDAP.	July 29
Treaty between U. S. and Germany restoring friendly relations. Vertrag zwischen den Vereinigten Staaten und Deutschland ueber die Wiederherstellung fraundschaftlicher Beziehungen.	August 25
	1923
Beer Hall Putsch at Munich. Muenchner Bierhallen Putsch.	November 9
	1925
After the death of Ebert, Paul von Hindenburg is elected Reich President. Nach dem Tod von Ebert wird Paul von Hindenburg zum Reichspraesident gewaehlt.	April 26
Locarno Treaties. Vertraege von Locarno.	October 16
	1928
Kellogg-Briand Pact outlawing war. Kellogg-Briand Kriegsaechtungspakt.	August 27
	1929
Heinrich Himmler appointed as Chief of the SS Elite Guards. Heinrich Himmler wird Chef der Schutzstaffeln (SS).	January 6
Geneva Convention about Prisoners of War. Genfer Konvention ueber die Behandlung der Kriegsgefangenen.	July 27

	1930
Dr. Heinrich Bruening, Catholic Centrist, is appointed as Reich Chancellor. Dr. Heinrich Bruening von der Katholischen Zentrumspartei zum Reichskanzler ernannt.	March 30
German Reichstag Elections: 107 NSDAP members among 577 Reichstag deputies. Wahlen zum Deutschen Reichstag: 107 nationalsozialistische Abgeordnete unter 577 Reichstagsabgeordneten.	September 14
	1932
Von Hindenburg re-elected Reich President with 53% of the votes, Hitler votes: 36.8%. Von Hindenburg wird mit 53% der Stimmen zum Reichspraesidenten wiedergewaehlt; Hitler erhaelt 36.8% der Stimmen.	April 10
Reich Chancellor Heinrich Bruening replaced by Franz von Papen. Reichskanzler Heinrich Bruening wird durch Franz von Papen ersetzt.	June 1
Reich Chancellor von Papen replaced by Kurt von Schleicher. Reichskanzler Papen wird von Kurt von Schleicher ersetzt.	December 3
	1933
Hitler appointed as Reich Chancellor. Among the members of his first cabinet: Schwerin von Krosigk. Hitler wird zum Reichskanzler ernannt. Unter den Mitgliedern des ersten Kabinetts: Schwerin von Krosigk.	January 30
Reichstag Fire. Reichstagsbrand.	February 27
Decree for the Protection of People and State suspending civil liberties. Verordnung zum Schutz von Volk und Staat durch die verfassungsmaessige Freiheiten aufgehoben werden.	February 28
Enabling Act. Ermaechtigungsgesetz.	March 23

	1933
Boycott against Jewish businesses. Boycott gegen juedische Geschaefte.	April 1
Dissolution of Trade Unions. Aufloesung der Gewerkschaften.	May 2
Law against Formation of New Parties. Gesetz gegen die Neubildung von Parteien.	July 14
Germany withdraws from the Disarmament Conference and the League of Nations. Deutschland zieht sich von der Abruestungskonferenz und dem Voelkerbund zurueck.	October 14
Law securing unity of NSDAP and State. Gesetz ueber die Einheit von Partei und Staat.	December 1
	1934
German-Polish Non-Aggression Pact. Deutsch-Polnischer Nichtangriffspakt.	January 26
Roehm Purge. Roehm Putsch.	June 30
After the death of President von Hindenburg the office of Reich President is united with that of the Reich Chancellor, both offices filled by Hitler. Nach dem Tode des Reichspraesidenten von Hindenburg wird Hitler Fuehrer und Reichskanzler.	August 1
	1935
Re-introduction of compulsory military service. Wiedereinfuehrung der allgemeinen Wehrpflicht.	March 16
Nuernberg Racial Laws. Nuernberger Rassengesetze.	September 15
	1936
Occupation of de-militarized Rhineland. Besetzung des demilitarisierten Rheinlandes.	March 6
German-Austrian Treaty of Friendship. Deutsch-Oesterreichischer Freundschaftspakt.	July 11
Beginning of the Spanish Civil War. Beginn des spanischen Buergerkrieges.	July 17
	1937
Civil Service Act. Reichsbeamtengesetz.	January 26

	1938
Hitler assumes Command of the Armed Forces. Hitler uebernimmt das Kommando der Wehrmacht.	February 4
Von Ribbentrop appointed as Reich Foreign Minister. Von Ribbentrop zum Reichsaussenminister ernannt.	February 4
Berchtesgaden Conference between Hitler and Schuschnigg. Konferenz in Berchtesgaden zwischen Hitler und Schuschnigg.	February 12
Invasion of Austria (Case Otto). Einfall in Oesterreich (Fall Otto).	March 12
German assurance to Czechoslovakia. Versicherung Deutschlands an die Tschechoslowakei.	September 26
Munich Pact. Muenchner Abkommen.	September 29
German troops enter Sudeten territory. Deutsche Truppen ruecken in das Sudetenland ein.	September 30
Pogrom against Jews ("Crystal Week"). Pogrom gegen Juden ("Kristallwoche").	November 9
	1939
Hitler-Hacha meeting in Berlin. Hitler-Hacha Begegnung in Berlin.	March 14
Occupation of Bohemia and Moravia (Case Green). Besetzung von Boehmen und Maehren (Fall Gruen).	March 15
Incorporation of Memel. Eingliederung von Memel.	March 22
Italian invasion of Albania. Italienischer Einfall in Albanien.	April 7
German-Danish Non-Aggression Treaty. Deutsch-Daenischer Nichtangriffspakt.	May 31
German-USSR Non-Aggression Treaty. Deutsch-Russischer Nichtangriffspakt.	August 23

	1939
German Peace Assurance to Luxembourg. Deutsche Friedensversicherung an Luxembourg.	August 26
Incorporation of Danzig. Eingliederung von Danzig.	September 1
Invasion of Poland (Case White). Einfall in Polen (Fall Weiss).	September 1
German-Russian Friendship Treaty. Deutsch-Russischer Freundschaftsvertrag.	September 28
German Peace Assurance to Norway. Deutsche Friedensversicherung an Norwegen.	October 6
German Peace Assurance to Yugoslavia. Deutsche Friedensversicherung an Jugoslawien.	October 6
	1940
Invasion of Denmark and Norway (Case Weser Exercise). Einfall in Daenemark und Norwegen (Fall Weseruebung).	April 9
Invasion of the Low Countries, Belgium and Luxembourg (Case Yellow). Einfall in die Niederlande, Belgien und Luxemburg (Fall Gelb).	May 10
Dunkirk. Duenkirchen.	beginning of June
Petain's Armistice Offer. Petain's Waffenstillstandsangebot.	June 17
Tripartite Pact: Germany, Italy, Japan. Dreimaechtepakt zwischen Deutschland, Italien, Japan.	September 27
Invasion of Greece by Italy. Italienischer Einfall in Griechenland.	October 28
	1941
German troops enter Bulgaria. Deutsche Truppen gehen nach Bulgarien.	March 2
Yugoslavia joins Tripartite Pact and receives assurances of friendship. Jugoslawien tritt dem Dreimaechtepakt bei und erhaelt Freundschaftsversicherungen.	March 25

	1941
Invasion of Greece and Yugoslavia (Case Marita). Einfall in Griechenland und Jugoslawien (Fall Marita).	April 6
Invasion of the Soviet Union (Case Barbarossa). Einfall in die Sowjet-Union (Fall Barbarossa).	June 22
Japanese attack on Pearl Harbor. Japanischer Angriff auf Pearl Harbor.	December 7
	1942
Landing of the Allies in North Africa. Die Alliierten landen in Nordafrika.	November 8
	1943
German troops surrender at Stalingrad. Deutsche Truppen ergeben sich in Stalingrad.	February 2
Allied landings in Sicily. Landung der Alliierten in Sizilien.	July 10
Fall of Mussolini. Sturz von Mussolini.	July 25
	1944
Landing of the Allies—Normandy. Landung der Alliierten in der Normandie.	June 6
Battle of the Bulge. Die Eiffel-Ardennen Offensive.	December 20
	1945
Unconditional surrender of Germany. Bedingungslose Uebergabe Deutschlands.	May 8

II. POLITICAL HISTORY OF THE THIRD REICH

The political history of the German Reich from 1871 to 1945 is divided into three parts:

1. The first began on 18 January 1871 when Bismarck created the German Empire during the Franco-Prussian war. It ended on 9 November 1918 with the collapse of Germany after World War I. During this period the Reich was headed by three emperors—Wilhelm I, Friederich III, and Wilhelm II. This era was also known as the Second Reich, reference being taken to the First Reich, the Holy Roman Empire of German Nations which ended in 1806.

2. The second period was known as the Weimar Republic, deriving its name from the city of Weimar where the German republican constitution was adopted in 1919. It began on 9

November 1919 and terminated on 30 January 1933 with the accession of Hitler to power. Under the republican constitution, the chief executive of the government was the president. While the Republic was in existence, two presidents were elected and served terms—Friederich Ebert and Paul von Hindenburg.

3. The third period was the period of the National Socialist regime, usually called the Third Reich. This era began on 30 January 1933 when Hitler, the Fuehrer (Leader) of the National Socialist Workers Party (Nationalsozialistische Deutsche Arbeiterpartei, abbreviated NSDAP), became Reich Chancellor. It ended with the unconditional surrender of Germany on 8 May 1945.

III. GOVERNMENT STRUCTURE OF THE THIRD REICH

The governmental structure of the Third Reich differed substantially from that of the German Empire and the Weimar Republic, despite similarities in form. Although the Weimar Constitution, which safeguarded civil liberties and state rights, was never repealed and many of its articles remained unchanged, it was largely superseded by a series of organic acts upon which the Nazi regime based its authority.

The Decree for the Protection of People and State of 28 February 1933 suspended civil and personal liberties of the people. It abrogated the guarantees of freedom of speech, of freedom from search, the right of peaceable assembly, secrecy of communications, and the right to protection of property.

The Enabling Act of 23 March 1933 transferred the legislative power, even authorizing deviation from the constitution, to the Fuehrer Hitler and the Reich Cabinet.

The law securing the unity of Party and State of 1 December 1933 declared that the NSDAP was inseparably united with the State.

The Law of 1 August 1934 promulgated immediately after the death of the Reich President von Hindenburg, combined the powers of the Reich President and Reich Chancellor in the person of Hitler. Hitler thereafter had the title The Fuehrer and Reich Chancellor.

The Law of 31 March 1933 dissolved the legislative bodies of the states or "Laender", for example, Prussia, Bavaria; the Law of 7 April 1933 further integrated the Laender with the Reich by providing for the appointment of Reich governors whose duty it was to rule the Laender in the name of the Reich, according to the policies laid down centrally in Berlin.

IV. CHART OF ORGANIZATION OF THE REICH GOVERNMENT

[The size and detail of this chart make reproduction impracticable. However, a copy of this chart may be found in the special pocket at the end of volume XXXI, "Trial of the Major War Criminals." This chart on the "Organization of the Reich Government" was introduced in the IMT trial as Document 2905–PS, Exhibit USA–3. It contained an affidavit of Wilhelm Frick, Reich Minister of the Interior from January 1933 to 20 August 1943, and a defendant before the IMT, stating that the chart was "a true and faithful representation of the organizational structure and chief leadership personnel of the Reich government as it existed in March 1945."]

V. LEGISLATIVE SYSTEM OF THE THIRD REICH

As already noted, the Enabling Act of 23 March 1933 transferred the legislative power to Hitler and the Cabinet. Acts passed and decreed by these men, although in many cases termed "laws", were actually decrees promulgated in the name of the Reich Cabinet and signed by Hitler and/or the respective Reich Ministers.

Subsequently, legislative power was vested in other Reich agencies, and offices created by decrees or orders. Such agencies and offices were the Reich Defense Council, the Ministerial Council for the Defense of the Reich, the Plenipotentiary for the Four Year Plan, the Plenipotentiary for the Economy of the Reich, the Plenipotentiary for Reich Administration, and others.

Power to legislate was also delegated from the chief of a ministry or the plenipotentiary to individuals within the ministry, agency, or office. State Secretaries [Staatssekretaere] often promulgated and signed decrees.

Another fundamental characteristic of the legislative system of the Third Reich was the secrecy of certain laws. Under the Weimar Constitution, laws passed by the Reichstag, before having legal effect, had to be published in the Reichsgesetzblatt, comparable to the United States Statutes at Large. Under the Nazi regime, provisions relating to general publication of acts and decrees were no longer observed. The publication of certain acts and decrees was prohibited by clauses within the acts themselves. Nevertheless, such acts were binding upon all whom they affected. Examples of this are seen in the Secret Reich Defense Laws, publication of which was forbidden.

VI. SUPREME REICH AGENCIES

1. Political

The supreme Reich agencies (oberste Reichsbehoerden) also known as central agencies (Zentralbehoerden) were located in

Berlin on, or in the vicinity of, the Wilhelmstrasse. They consisted of Reich Ministries (Reichsministerien) and other supreme Reich agencies, many of them newly created under the Nazi regime. From the viewpoint of their organization some of these ministries and agencies were comparable to executive departments and agencies in the United States or to ministries in other European countries. However, their functions were entirely different, since their field of jurisdiction included exercise of legislative and, to some extent, judicial power.

Among the Reich Ministries or other supreme Reich agencies which figure in this case are:

The Reich Chancellery (Reichskanzlei), a central agency for the coordination of the actions of all supreme Reich agencies. According to the "Handbuch fuer das Deutsche Reich of 1936": "it is the duty of the Chief of the Reich Chancellery to inform the Fuehrer and Reich Chancellor about the current questions of policy and to prepare the directives." The defendant Lammers was Reich Minister and Chief of the Reich Chancellery.

The Presidential Chancellery (Praesidialkanzlei) had charge of the activities resulting from the position of the Reich Chancellor as sovereign head of the State. Head of the Presidential Chancellery was the defendant Meissner, who held similar positions under the Reich presidents, Friederich Ebert and Paul von Hindenburg.

The Reich Ministry of Foreign Affairs (Auswaertiges Amt), was comparable in structure to the Department of State in the United States or to the British Foreign Office. Its first Foreign Minister under Hitler was Konstantin von Neurath (until 1938) and his successor was Joachim von Ribbentrop (1938–1945). Eight members of this ministry are defendants in this trial: four State Secretaries, Ernst von Weizsaecker, Gustav Adolf Steengracht von Moyland, Wilhelm Keppler, Ernst Wilhelm Bohle; Under State Secretary Ernst Woermann; Ambassador Karl Ritter; Ministerialdirigent Otto von Erdmannsdorff; and Reich Plenipotentiary Edmund Veesenmayer.

The Reich Ministry of Public Enlightenment and Propaganda (Reichsministerium fuer Volksaufklaerung und Propaganda) was created by the Nazi regime on 13 March 1933. Its Reich Minister was Paul Josef Goebbels. The State Secretary of this ministry [Otto Dietrich] is a defendant in this trial.

The Reich Ministry of the Interior (Reichsministerium des Innern) comparable in its structure to most interior ministries of continental Europe, but *not* to the Department of the Interior in the United States, had important legislative functions and controlled in general the national, state, and local administrations,

the civil service, and the central police administration. Its Reich Minister was Wilhelm Frick (from 1933 to 1943), who was also Plenipotentiary for the whole administration of the German Reich. Frick was succeeded by Heinrich Himmler (1943 to 1945). One member of this ministry is a defendant in this trial: State Secretary Wilhelm Stuckart. He was also staff leader to the Plenipotentiary of Reich Administration [Frick].

The Ministry of Finance (Reichsfinanzministerium) was comparable in its structure with the Department of the Treasury in the United States. Its Minister, Lutz Schwerin von Krosigk, is a defendant in this trial.

There existed many other supreme Reich agencies, such as, the Ministry of Justice (Thierack*), the Ministry of Labor (Seldte*), the Ministry of Education (Rust*), the Ministry of Post (Ohnesorge), Church Affairs (Kerrl*), the Air Ministry (Goering*), the Ministry of War, later superseded by the High Command of the German Armed Forces (Keitel*) (Oberkommando der Wehrmacht, or OKW).

Information on other supreme Reich authorities with which these proceedings are concerned, especially in the economic field, is treated in the following pages. The treatment will be in greater detail because of their special nature.

2. Economic

There is set forth below a brief description of the more important government agencies concerned with the control of economy in the Third Reich which are involved in the present proceedings.

There were constant changes in the economic structure of Nazi Germany as the regime faced in turn the problems of domestic consolidation, intensive rearmament, and the waging of war. New agencies were created to meet new problems and functions were shifted from one agency to another, often without clear lines of demarcation.

The Ministry of Economics (Reichswirtschaftsministerium—RWM): At the beginning of the Nazi regime, the Reich Ministry of Economics was the central government agency for the determination of economic policy and economic administration. Its importance decreased after Goering had been appointed Plenipotentiary for the Four Year Plan in the fall of 1936. After the reorganization by Goering in February 1938, the Ministry of Economics regained to some extent its former position. During the war it gradually lost its influence, this time to the Ministry of Arms and Munitions headed by Speer. Speer finally gained

* Deceased.

complete control over all of German production in 1943, leaving the Ministry of Economics only the control of supply and distribution of consumer goods for civilian population, foreign trade, foreign trade policy and control of credit institutions.

The first Minister of Economics in Hitler's cabinet was Alfred Hugenberg, leader of the German National People's Party, who resigned in June 1933. His successor was Kurt Schmitt, who remained in office until August 1934. Dr. Hjalmar Schacht (President of the Reich Bank since March 1933) was then appointed Acting Minister of Economics until he resigned in November 1937. From November 1937 to February 1938 Goering took over the Ministry of Economics and became Acting Minister of Economics, a post which he relinquished to Walther Funk on 6 February 1938 who remained Minister of Economics until the end of the war.

When Funk became Minister of Economics in 1938, leading officials of the Four Year Plan were put in charge of the most important main departments of his Ministry and many functions which the office of the Four Year Plan had taken over during the period of rivalry between Goering and Schacht were transferred back to the Ministry of Economics. For special fields of production, which were particularly important to the war effort, Goering appointed Plenipotentiaries General who were vested with the full power of the Four Year Plan in their particular fields, for example, General von Hanneken was appointed Plenipotentiary General for Iron and Steel in 1937; Dr. Krauch,* Plenipotentiary General for Special Tasks of Chemical Production in 1938. During the war, Speer and Sauckel were appointed Plenipotentiaries General for their particular fields described below.

Schacht instituted a "New Plan" which was designed to rebuild German economy and further the secret rearmament. Shortly before Schacht's resignation his "New Plan" was replaced by Goering's Four Year Plan which was to make Germany ready for war within 4 years and to make it self-sufficient in the most important strategic materials.

Economic Organization: The basic law concerning the new organic structure of German industry and business was promulgated 27 November 1934. The Reich Minister of Economics was established as the supreme leader of German economy. The first article of the decree provided:

"The Reich Minister of Economics is empowered for the preparation of the organic structure of the German Economy:

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* Carl Krauch, defendant in the "I. G. Farben Case," *United States* vs. *Carl Krauch, et al.* volumes VII and VIII, this series.

"1. To recognize economic associations (Wirtschaftsverbande) as the sole representative of their economic branch;

"2. To establish, to dissolve, or to merge economic associations;

"3. To amend, to supplement bylaws and contracts (Gesellschaftsvertraege) of economic associations; particularly to institute the leadership principle (Fuehrergrundsatz)."

The changes effected pursuant to this decree converted the then existing highly organized associations into compulsory organizations under the general direction of the Minister of Economics.

Existing territorial organizations of the Chambers of Industry and Commerce, and Chambers of Handicraft were continued. However, they were consolidated in the middle level to regional economic chambers (Wirtschaftskammern) and at the national level into a federation of Chambers of Industry and Commerce. A new agency, the Reich Economic Chamber (Reichswirtschaftskammer) was established in the Ministry of Economics to coordinate at the top level the functional and territorial associations.

The new functional organizations consisted of—

(*a*) Reich groups (Reichsgruppen)

(*b*) Economic groups (Wirtschaftsgruppen)

(*c*) Subgroups (Fachgruppen)

There were seven Reichsgruppen at the top level, one each for industry, commerce, banking, insurance, power, handicraft, and tourist traffic. They corresponded to the former Spitzenverbaende. The Reichsgruppe Industrie (Reich Group Industry) was made up of 31 Economic Groups, each representing one branch of industry. Each of these Groups in turn was further subdivided into various subgroups or into territorial subdivisions of the Economic Group.

Every entrepreneur was required to belong to the local chamber in his area and to the appropriate functional organization comprising his business. The elective features of the former organization were abolished and the leadership principle adopted for the selection of officers. The Minister of Economics appointed the heads of the Reich Economic Chamber and of the Reichsgruppen and these heads in turn appointed the subordinate leaders. The charter of each group was decreed by its leader and he had the duty to lead his group in accordance with the principles of the National Socialist State. The Economic Groups were subdivided into both regional (Bezirksgruppen) and professional subgroups (Fachgruppen).

The Economic Group Mining (Wirtschaftsgruppe Bergbau), comprised all mining, including the mining of coal.

The Economic Groups continued in existence until the end of the war although their specific functions varied considerably as the economic situation of Germany changed.

Reichsvereinigung Kohle (RVK)—During the early years of the Third Reich private cartels continued to be very influential. The Ministry of Economics was authorized to establish compulsory cartels by a decree of 15 July 1933, or to compel outsiders to maintain membership in existing ones. This legal basis was used during the war for the foundation of the Reich Association Coal (Reichsvereinigung Kohle—RVK).

Reich Associations were new top control organizations composed almost exclusively of leaders of the particular field of industry over which they had supervision. They had governmental status and were vested with authority to issue directives binding upon all members of the particular industry. Many of the functions previously performed by various government offices and agencies were transferred to the Reich Associations, and all market regulating associations were placed under their direct control.

The RVK was created in March 1941. It was headed from 1941 until the end of the war by [the defendant] Paul Pleiger as chairman of the Praesidium, a governing committee composed of the leaders of the coal industry.

Whenever a Reich association was established for any particular field the influence of the economic group in that field naturally declined. However, friction was eliminated by close interlocking of the two organizations, for example, the Deputy Chairman of the RVK, Heinrich Wisselmann, was, at the same time, the leader of the Economic Group Mining. The regional organizations of the former Economic Group Mining were left in existence, but the most important of them were subjected to the control of the RVK, and became in effect their regional offices.

The Office of the Four Year Plan (Vierjahresplan)—At the Reich Party Rally in Nuernberg on 9 September 1936, Hitler announced the establishment of the Four Year Plan and the appointment of Goering as Plenipotentiary in charge. Goering was vested with far-reaching authority to give orders to all governmental and party agencies, thus creating a superministry in the field of economics. In the first decree for the execution of the Four Year Plan Goering disclosed the planned organization and decided for principal decisions to consult a Minister's Council, which was to include State Secretary and Chief of the Reich Chancellery [the defendant] Lammers, and as general expert for the reconstruction of German raw materials and synthetics, [the defendant] Keppler. [The defendant] Paul Koerner was

appointed as Goering's deputy. Goering created six "administrative groups" (Geschaeftsgruppen) to coordinate all problems involved in the rearmament program—(1) for production of raw materials and synthetics, (2) for distribution of raw materials, (3) for labor allocation, (4) for agricultural production, (5) for price formation, and (6) for foreign exchange. These administrative groups consisted of a few select experts from the agencies which had been concerned with these problems before the creation of the Four Year Plan. The first administrative group was known as the Office for German Raw Materials and Synthetics (Amt fuer deutsche Roh- und Werkstoffe) under Lieutenant Colonel Loeb. Within this group Keppler was entrusted with the planning and execution of the production of industrial fats. Furthermore Goering appointed him as his personal adviser for problems of reconstruction of German raw materials and synthetics and ordered him to reorganize the geophysical exploration of German soil. Pleiger was put in charge of Section IV/1 dealing with metals and [the defendant] Kehrl was made chief of Section IV/2 dealing with textiles. In 1938, in the course of the reorganization of the Office of the Four Year Plan, this office transferred to the Reich Ministry of Economics and was renamed Reich Office for Economic Development (Reichsstelle fuer Wirtschaftsausbau) under Lieutenant Colonel Czimatis and since 1942 under Professor Krauch. Since the outbreak of the war the official title of this organization was changed from "Reichsstelle" to "Reichsamt" fuer Wirtschaftsausbau.

Since the Office of the Four Year Plan consisted of representatives taken from various other government agencies who continued their work within their government agencies, it was necessary to create the central coordinating board of the leading men of the Four Year Plan. The General Council of the Four Year Plan (Generalrat des Vierjahresplanes) met usually once a week under the chairmanship of Goering himself or of State Secretary Koerner. All Plenipotentiaries General of the Four Year Plan and all heads of the "Administrative Groups" attended these regular meetings. Since the beginning of the war the intervals between the meetings grew longer and with the declining importance of Goering in the economic field, the General Council of the Four Year Plan lost its importance after 1941.

Wirtschaftsfuehrungsstab Ost—Prior to the invasion of the Soviet Union, Hitler gave Goering as Plenipotentiary of the Four Year Plan the over-all direction for the economic administration and exploitation of the occupied areas of the U.S.S.R. For this function Goering set up an economic staff, the Wirtschaftsfuehrungsstab Ost (Economic Executive Staff East) and ap-

pointed as his deputy Paul Koerner. The purposes of this staff was the plundering and abandonment of all industry in the food-deficit regions and abandonment diverting food to German needs from the food-surplus regions.

Central Planning Board (Zentrale Planung)—The Central Planning Board (Zentrale Planung) was created by Goering in April 1942 as the supreme coordinating agency for the German war effort. This Board was officially an agency of the Four Year Plan; for all practical purposes, however, it was the instrument through which the entire German war effort was directed between 1942 and 1945.

The Central Planning Board was composed of three members —Speer, Milch,* and Koerner. Each had equal authority. The function of the Central Planning Board was the planning of the distribution and allocation of raw materials necessary for the conduct of the war, and the allocation of manpower to the principal sectors of war economy. In September 1943 Funk was appointed as the fourth member of the Central Planning Board. Sauckel appeared frequently before the Central Planning Board when labor questions were under discussion, as did all important governmental and industrial organizations concerned in the allocation of labor, e.g., Pleiger and Kehrl.

The Speer Ministry—The Ministry of Arms and Munitions (Ministerium fuer Bewaffnung und Munition) was created in March 1940. Its first head was Dr. Fritz Todt, the founder of the "Organization Todt." Its function was to coordinate the activities of all agencies and private enterprises engaged in the manufacture of armaments and to improve war production from a technological point of view.

Under Speer's direction the Ministry became the most important single influence on industrial production for the prosecution of the war. Shortly after Todt's death Speer was designated as Plenipotentiary General for Armament Tasks of the Four Year Plan. From then on the Speer Ministry gradually absorbed a variety of functions formerly performed by others, including the Ministry of Economics, the Wehrmacht and the Luftwaffe. In September 1943 the acquisition of power resulted in a reorganization of the Ministry and the change of its name to the Ministry of Armament and War Production (Ministerium fuer Ruestung und Kriegsproduktion).

Speer developed the system initiated by Todt of utilizing representatives of the armament industry into the system of "Self-responsibility of industry" (Selbstverantwortlichkeit der Industrie). He established Main Committees (Hauptausschuesse) and

* Field Marshal Erhard Milch, the sole defendant in the "Milch Case," volume II, this series.

Rings (Ringe) staffed from the ranks of private industry. Committees were boards of technicians concerned with production and processing of one end product. The Rings were similar boards concerned with the production of one part which entered into the production of several other end products. Among the most important departments of Speer's Ministry were:

1. *The Planning Office* (Planungsamt), headed by [the defendant] Hans Kehrl, which was responsible for over-all planning in all matters of production and distribution. The Planning Office acted not only as an agency of the Speer Ministry but was the executive agency of the Central Planning Board (Zentrale Planung).

2. *The Raw Materials Office* (Rohstoffamt), also headed by Kehrl, which was responsible for the production of basic raw materials other than iron and steel. This office supervised the Reich Association Coal (RVK), Main Ring: Metals, and other Reich Associations and Economic Groups in the raw material field.

3. *The Armament Supply Office* (Ruestungslieferungsamt), headed by Dr. Schieber, which was in charge of iron and steel production and other semifinished materials necessary for armament production.

4. *The Armament Office* (Ruestungsamt) was responsible for the final production of arms and munitions. This office was originally an agency of the OKW called the Military Economic and Armament Office (Wi-Rue-Amt). It was headed by General Thomas while part of the OKW and also after its transfer to the Speer Ministry in May 1942. In 1943 Thomas was succeeded by Major General Kurt Waeger.

Reich Ministry of Labor (Reichsarbeitsministerium—RAM)—The Reich Ministry of Labor was headed from 30 January 1933 to the end of the war by Franz Seldte. Originally it was the highest authority on all labor questions. The responsibility for the allocation and supply of labor was transferred in 1936 to the Office of the Four Year Plan, where it was under the supervision of Dr. Mansfeld and Dr. Syrup. The procurement of labor from occupied territories was begun by this Labor Allocation Office, which utilized the lower echelons of the Reich Labor Ministry for the distribution of this labor.

The lower echelons of the Reich Labor Ministry were Provincial Labor Offices (Laendesarbeitsaemter) and the Local Labor Offices (Arbeitsaemter). A law of May 1933 had established, for questions of wages and working conditions, the institution of Reich Trustees of Labor (Reichstreuhaender der Arbeit). In 1943 the Reich Trustees of Labor were consolidated with the

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Provincial Labor Offices (Laendesarbeitsaemter) into Gau Labor Offices (Gauarbeitsaemter).

The Plenipotentiary General for Labor Allocation (Generalbevollmaechtigter fuer den Arbeitseinsatz)—The Labor Allocation Office of the Four Year Plan did not provide sufficient labor from the occupied territories. Consequently, Hitler appointed Fritz Sauckel, the Gauleiter of Thuringia, as Plenipotentiary General for Labor Allocation in February 1942 and Goering thereupon appointed him Plenipotentiary for Labor Allocation of the Four Year Plan as well. In order to provide Sauckel with executive agencies, the Main Departments III, (headed by Dr. Kimmich), VI (headed by Dr. Timm [originally Department V, headed by Dr. Beisiegel]), and IX (headed by Professor Jung) of the Reich Ministry of Labor and the lower echelons of the Ministry namely, the Provincial Labor Offices and Local Labor Office, which together formed the Labor Allocation Administration (Arbeitseinsatzverwaltung), were transferred to Sauckel. Sauckel also had special representatives in all occupied and satellite territories.

Military Economic Agencies of the Wehrmacht—In 1927 the Army Ordnance Office (Heereswaffenamt) formed a special economic staff (Wirtschaftsstab—WStb) with field offices (Aussenstellen), Military Economy Officers (Wehrwirtschaftsoffiziere) and Military Regional Commands (Wehrkreiskommandos) for general questions of military economy.

After the seizure of power by Hitler the new branch of the armed forces, the Luftwaffe, created its own ordnance office (Waffenamt), and shortly thereafter the navy also created its own ordnance office, so that the old organization within the Heereswaffenamt became only one of three agencies in charge of armaments.

On 1 November 1934 a central agency for the armed forces "Military Economics and Ordnance Affairs" (Wehrwirtschafts- und Waffenwesen) was created. This central agency did not, however, have jurisdiction over the ordnance offices of the different parts of the Wehrmacht. Colonel Georg Thomas, the former Chief of Staff of the Heereswaffenamt, was made chief of this new agency. In October 1935 the agency was renamed Military Economics Staff (Wehrwirtschaftsstab—WSt); and in spring 1935 the so-called Military Economics Inspectorates (Wehrwirtschaftsinspektionen) were established, and the former Military Economy Officers were incorporated in these newly organized inspectorates. The Wehrwirtschaftsstab, which in November 1939 was renamed Military Economic and Armament Office (Wi-Rue-Amt), was in charge of the over-all armament

plan for all parts of the German armed forces. After the first failures of the German Wehrmacht in Russia, when Hitler lost faith in the generals, civilian agencies gradually took over the functions which had been entrusted up to that time exclusively to military. In 1942 the Armament Office, the most important part of the Wi-Rue-Amt was transferred to Speer's Ministry and the functions of Wi-Amt, later renamed "Feldwirtschaftsamt," were greatly reduced.

3. Agricultural

The Reich Ministry of Food and Agriculture—The Reich Ministry of Food and Agriculture was established in 1920. On 1 July 1933 it was merged with the Prussian Ministry of Agriculture, Domains, and Forests.

The Ministry had two State Secretaries and consisted of 8 divisions, which were subdivided into branches and sections.

The Reich Food Estate—The Reich Food Estate, which was set up by the law of 13 September 1933 was an organization with compulsory membership of all producers, processors, and dealers in agricultural products. Its head was the Reich Peasant Leader who was appointed by Hitler. The Reich Food Estate was a public corporation subject to the general supervision of the Reich Minister of Food and Agriculture. Darré was Reich Minister of Food and Agriculture as well as Reich Peasant Leader from 1933 until May 1945.

The Administration Office of the Reich Peasant Leader was organized into three divisions:

1. Central Main Division I—"People" (Der Mensch)
2. Central Main Division II—"Farm"
3. Central Main Division III—"Market"

The Reich Food Estate had the following territorial subdivisions:

1. Regional Peasant Associations for the states and Prussian provinces—approximately 20 in all.

2. County Peasant Associations for the counties—approximately 500 in all.

3. Local Peasant Associations for the villages—approximately 50,000 in all.

At the head of each regional peasant association was a regional peasant leader, at the head of every county peasant association a county peasant leader and at the head of every local peasant association a local peasant leader.

The offices of the regional and county peasant associations were likewise organized into three main divisions, to which the

same tasks were assigned as to the administration office of the Reich Peasant Leader.

Central Marketing Associations and Marketing Associations—The central marketing associations were established by special decrees of the Reich Minister of Food and Agriculture based on the Reich Food Estate Law. They were combinations of all producers, processors, and distributors of specific commodities or commodity groups. Their task was the carrying out of the Agricultural Marketing Order, that is, the flow of the respective commodities or commodity groups from the producer to the consumer.

Altogether 10 Central Main Associations were set up in the years 1933 to 1936.

Each central marketing association, with the exception of one, was subdivided into regional marketing associations, in general one regional marketing association for every regional peasant association.

The Reich Offices (Reichsstellen)—The Reich offices were, like the central marketing associations, organs of the Agricultural Marketing Order, and as such instrumental in preventing disturbing occurrences on the market. They had mainly monopoly functions to regulate imports. It was their task to divert the surplus of domestic commodities to stock-piling, to make good shortages of domestic commodities by releasing such stocks and to allow foreign commodities into the country in *those* quantities, at *those* intervals and at *those* prices, which would exercise the desired effect upon the domestic market.

Four Reich Offices were established by special Reich laws from 1933 until 1936. They were agencies of the Reich and immediately subordinate to the Ministry of Food and Agriculture.

War Food Economy—The War Food Economy was introduced by decree of 27 August 1939 and a number of related decrees.

The offices in charge of the war food economy were the Landesernaehrungsaemter (Regional Food Offices), and Ernaehrungsaemter (Food Offices), each of which consisted of two divisions —A and B. The task of the Division A was to procure foodstuff produced within their areas, while the Division B was in charge of their distribution.

The central marketing associations, which were not permitted to carry out business activities before the war, were then assigned business divisions. Insofar as Reich offices existed, they were designated as business divisions of the competent central marketing associations. Insofar as Reich offices did not exist, a special business division was newly set up.

VII. THE GERMAN BANKING SYSTEM

The German Reich Bank [Deutsche Reichsbank] was Germany's central bank and all German credit institutions had to submit annual balance sheets to it. A large number of institutions, both private and public granted commercial credits including the big Berlin banks (Berliner Grossbanken), the regional banks, some of the State banks (Staatsbanken), private bankers and credit cooperatives. In addition there was a structure of savings institutions including municipal savings banks, a structure of mortgage bank institutions, special institutions for financing industrial investments and agricultural credit institutions.

The six big Berlin banks were the leading commercial credit institutions in Germany. The largest of these was the Deutsche Bank and the second largest the Dresdner Bank. These institutions led in investment financing, in industrial connections and in large credits to "big business." With their main offices in Berlin they had a network of branches and agencies in Germany including annexed territories and numerous foreign affiliates.

1. *The Reich Bank*

The German Reich Bank stood at the apex of the German banking system throughout the Third Reich. It is Germany's central bank and a public corporation. It exercised the primary privilege of note issue, it operated as a bankers' bank and it functioned as banker to the Reich. An amendment to the Banking Act in 1933 provided for the direct appointment and dismissal of the Reich Bank President and members of the Directorate by the Fuehrer. Hjalmar Schacht was appointed President of the Reich Bank on 17 March 1933 and dismissed on 20 January 1939. Walther Funk was appointed Schacht's successor and was President until the capitulation.

After the passage of the Deutsche Reichsbank Law of 15 June 1939, the German Reich Bank was managed and directed by the President and other members of the Directorate in accordance with the instructions of the Fuehrer and Reich Chancellor. Overruling power of decision was vested in the President. The defendant Emil Puhl was appointed the Reich Bank President's Acting Deputy on 11 February 1939 and Vice-President of the Reich Bank on 8 August 1940 by Walther Funk. Puhl held the position of Vice-President until the capitulation.

2. *The Golddiskontbank (Dego)*

The Deutsche Golddiskontbank (Dego) was one of the important subsidiaries of the Reich Bank. Being limited by law in its

functions, the Reich Bank used the Golddiskontbank as an institution to supplement its own activities whenever the need arose. Originally established to assist the promotion of exports, the Golddiskontbank took up foreign credits, held capital investments in large German banking institutions, subsidized exports, discounted bills of the Reich Bank, purchased foreign loans at substantial discounts, etc. Emil Puhl was a member of the Aufsichtsrat of the Golddiskontbank from 1935 to the capitulation and was appointed as Deputy Chairman on 10 November 1944.

3. *The Dresdner Bank*

The Dresdner Bank was the second largest German commercial bank. At the time of the capitulation the Dresdner Bank with its main office in Berlin had approximately 300 branches and agencies in Germany and many foreign affiliates. Its capital and undistributed profits approximated 190,000,000 reichsmarks.

Brief History of the Dresdner Bank since 1930—Economic conditions in central Europe worsened during 1930 and in 1931 precipitated an exceedingly severe financial crisis in Germany. The Darmstaedter und Nationalbank (Danatbank) failed in July 1931 and the condition of the Dresdner Bank was critical. The German Government brought about the merger of the Danatbank with the Dresdner Bank in March 1932 and subsidized the merged institution with many millions of reichsmarks. When the reorganization was completed over 85 percent of the 150 million reichsmarks capital of the merged institution was owned by various agencies of the German Government. Important share participations in many important German industrial enterprises were acquired by the Dresdner Bank as a result of the crisis and the merger. As a further result of the merger the number of the Dresdner Bank's branches and banking affiliates both in Germany and in foreign countries substantially increased.

The seizure of power by Hitler in 1933 did not result in any immediate important changes in the Dresdner Bank but from 1933 until 1936 non-Aryan members of the Aufsichtsrat and Vorstand were removed and replaced. Rasche, at the insistence of Wilhelm Keppler, was appointed to the Vorstand of the Dresdner Bank on 1 January 1935 and during the last years of the war was speaker of the Vorstand.

In 1937 and 1938 the Dresdner Bank was "reprivatized." More than 85 percent of its shares, which since the crisis of 1931 and 1932 had been in hands of various agencies of the German Government, were sold to non-governmental purchasers consisting primarily of clients and associates of the bank. Through the wide distribution of shares which were sold in small blocs

and the avoidance of large holdings, the Vorstand was able to manage the Dresdner Bank independently thereafter. The transfer of the share control of the Dresdner Bank from the German Government to private hands produced no important change in personnel or policy of the bank.

Shortly after the Anschluss in March 1938 which brought Austria into Hitler's Third Reich, the Dresdner Bank acquired an important banking position in Austria by creating the Laenderbank Wien. This financial stronghold in Austria resulted from the merger of the Mercurbank with Austrian banking interests newly acquired from French and Czech owners.

After German military occupation of the Sudetenland in September 1938, the Dresdner Bank acquired the branches of the Czech Zivnostenska Bank and The Czech Boehmische Escompte Bank. When Hitler's troops marched into Bohemia and Moravia in March 1939 the Dresdner Bank took control of the Boehmische Escompte Bank which was one of the most important banks in Czechoslovakia. In May 1939 Rasche became chairman of the Verwaltungsrat of the Boehmische Escompte Bank.

After the outbreak of World War II the Dresdner Bank continued to expand in Europe. The Handelstrust West was founded by the Dresdner Bank in the Netherlands in October 1939 and operated a bank in Amsterdam and in The Hague. In March 1941 the Dresdner Bank founded the Continental Bank in Belgium as its Belgian affiliate.

As World War II progressed the Dresdner Bank pursued an aggressive expansion policy in many other areas occupied by Hitler's armies including territory of Hitler's allies as well as territories of his enemies. A listing of the foreign affiliates of the Dresdner Bank will be found after the section on the organization of the Dresdner Bank.

Organization of the Dresdner Bank—Technically, ultimate control of the Dresdner Bank A.G. rested with its shareholders. After the "reprivatization" of the Bank's shares in 1937 and 1938, the absence of large blocs of shares and the deposit of a substantial portion of the shares with the bank itself, resulted in the annual meeting of shareholders amounting to little more than a meeting which as a formality ratified the choice of Aufsichtsrat members who had been selected by leading members of the Vorstand and the chairman of the Aufsichtsrat.

Aufsichtsrat—The Aufsichtsrat consisted of about thirty persons chosen from industrial and governmental circles including representatives of such leading customers of the Dresdner Bank as Krupp, Flick, I. G. Farben, and the Hermann Goering Concern. Its duties included selecting the members of the Vorstand, re-

ceiving the information from the Vorstand about the progress of the business, including regular quarterly reports, and advance approval for certain kinds of credit transactions.

In fact, the Dresdner Bank Aufsichtsrat exercised no real functions. It met only twice a year and formally approved of the reports of the Working Committee and the Vorstand. The Aufsichtsrat's Working Committee assumed the full powers of execution of the Aufsichtsrat and the election of the members of this committee became the main function of the Aufsichtsrat. Nominations for committee membership were made by its chairman after discussion with members of the committee and the Vorstand. The committee met every 4 to 6 weeks and whenever required. Members of the Vorstand and other selected leading bank officials usually attended. It passed on credit matters, the founding or liquidation of branch banks and other banking affiliates, appointment of leading bank officials and other such matters.

Vorstand—The Vorstand, usually composed of nine members, managed the Dresdner Bank in accordance with the provisions of the German Corporation Act of 1937 which made the Vorstand the "Fuehrer" of the management. With the exception of certain required approvals of the Aufsichtsrat's Working Committee there was practically no limitation on the activities of the Dresdner Bank Vorstand. Vorstand members, in accordance with the division of functions which existed, handled the important day to day business of the bank. Formal meetings of the Vorstand were held twice weekly. In addition there were almost daily meetings, and reports of individual members were circulated among the others daily until the success of the bombing attacks in 1943 brought about a regional grouping of the Vorstand. Unanimity was in fact the rule for the approval of major credits and minutes were kept of each meeting of the Vorstand. When a Vorstand member was absent from a meeting he had to signify his approval upon his return or the matter would be taken up again. The work of the Vorstand was allocated to individual members on at least three distinct and overlapping bases—geographical divisions, functional departments, and personalities with customers. For each department, in addition to the Vorstand member assigned, a second Vorstand member was appointed as a deputy.

The major departments of the Dresdner Bank, 1933–1945 were with little change—Directory Cabinet (Direktions-Kabinett), Organization (Organisation), Foreign Exchange and Liquid Funds (Devisen und Fluessige Mittel), Economic (Volkswirtschaftlich), Main Office Berlin (Hauptniederlassung Berlin),

Branches (Filialen), Affiliations (Affiliationen), Foreign (Ausland), Syndicate (Konsortial), Stock Exchange (Boerse), Legal (Juristisch), and Personnel (Personal).

Foreign Affiliates of the Dresdner Bank (listed in the annual report of the Dresdner Bank for the year 1943)—

Boehmische Escompte Bank, Prag [Prague] (BEB)
Continentale Bank S.A./N.V., Bruessel [Brussels]
Deutsche Bank fuer Ostasien A.G.
Deutsche Handels- und Kreditbank A.G., Pressburg [Bratislava]
Deutsche-Suedamerikanische Bank A.G.
Griechisch-Deutsche Finanzierungsgesellschaft Aktiengesellschaft, Athens
Handels- und Kreditbank A.G., Riga
Handelstrust West N.V. Amsterdam (HTW)
Internationale Bank Luxemburg A.G. Luxemburg
Kommerzialbank A.G., Krakau [Krakow]
Kroatische Landesbank A.G., Agram
Laenderbank Wien Aktiengesellschaft, Wien [Vienna]
Ostbank A.G., Posen [Poznan]
Rumaenische Bankanstalt, Bukarest
Sued-Bank A.G., Belgrad
Ungarische Allgemeine Creditbank, Budapest

VIII. CORPORATE LAW IN THE THIRD REICH

Comparisons to American Forms and American Law—The German law of business associations, like the American, distinguishes between forms of enterprise which are juridical persons and those which are not, such as partnerships. The latter, however, may have some of the characteristics of enterprises which are juridical persons. Under each of these two principal categories, there are various forms of enterprises in which responsibility and liability of the sponsors of the enterprise may vary. German enterprises which are juridical persons are hereinafter referred to as corporations. Like American corporations, German corporations can hold legal rights and powers in the same general way as a natural person but the liability of the owners or shareholders is limited to the amount of their investment in the enterprise.

The principal forms of business enterprise which are corporations or juridical persons under German law are the Aktiengesellschaft or "A.G." (roughly translated as "stock corporation") and the Gesellschaft mit beschraenkter Haftung or "G.m.b.H." (company with limited liability). The main forms of German business enterprises which are not juridical persons or corpora-

tions include the Einzelhandelsfirma (Private Firm), Offene Handelsgesellschaft or "O.H.G." (roughly a general partnership) and the Kommanditgesellschaft (roughly a limited partnership).

Aktiengesellschaft (A.G.) : *Ownership*—The A.G. is most similar to an American stock corporation. It is created by the filing and recording of articles of incorporation generally called "Gesellschaftsvertrag" (before 1937) and "Satzung" (after 1937). Ownership of the A.G. is divided into shares (Aktien) made evident by stock certificates which are either registered or bearer shares. The capitalization of an A.G. generally must amount to not less than 500,000 marks.

Management of the A.G. is in the hands of three groups—the Managing Board of Directors or Vorstand, and the Supervisory Board or Aufsichtsrat, and the stockholders, whose influence is exercised at their annual general meeting.

The *Aufsichtsrat* is a supervisory board of directors elected by the stockholders at the annual meeting generally called the "Generalversammlung" (before 1937) and the "Hauptversammlung" (after 1937). With some notable exceptions, the members of the Aufsichtsrat appear to correspond functionally with those members of the board of directors of a major American corporation who are not members of the executive committee and who do not participate in the actual or day-to-day management of the business. The formal rights and duties of the Aufsichtsrat under German law include the *appointment, supervision,* and *removal* of the members of the Vorstand; the general supervision of the management of the enterprise by the Vorstand; the right to examine and audit books and accounts; the calling of stockholders' meetings; and the representation of the corporation in dealing with the Vorstand.

The *Vorstand* is the executive board of directors which undertakes the actual management of the corporation and represents the corporation in its dealing with others. The members of the Vorstand can best be compared functionally with the principal officers and directors of a major American corporation who serve on the executive committee and participate in the actual management of the corporation. In 1937 there was a general revision of German corporation law (1937 RGB1., Part I, page 107, dated 30 January 1937 and supplementary decrees thereto). Under the revised law, the chairman of the Vorstand could either be the dominant and decisive leader of the enterprise (the "Fuehrer") or he could be "first among equals" (*primus inter pares*) in the Vorstand, in which case the Vorstand as a body was the "Fuehrer" or dominant leader of the enterprise.

In the regular *annual meeting,* the stockholders or their duly

authorized representatives have the right to ask for information on annual reports of the Aufsichtsrat and the Vorstand and on the general management of the business. The annual shareholders meeting approves the action of the members of the Aufsichtsrat and the Vorstand in the discharge of their duties. It also approves amendments to the articles of incorporation and increases in capital. Final approval of the balance sheet and the distribution of profits are also the prerogatives of the stockholders.

Gesellschaft mit beschraenkter Haftung (G.m.b.H.)—"Gesellschaft mit beschraenkter Haftung" (literally translated as "company with limited liability") commonly abbreviated "G.m.b.H." was originally designed to give smaller businesses a possibility of operating with limited liability. The minimum required capitalization was 20,000 marks. The formalities of forming a G.m.b.H. are simpler than in the case of an A.G. The participant's interest in the G.m.b.H. is usually not made evident by written instrument, and if it is, such an instrument is not readily negotiable.

The management of the G.m.b.H. is vested in one or more persons called "Geschaeftsfuehrer" (business manager). There is no Vorstand and an Aufsichtsrat is not prescribed by law. If there is an Aufsichtsrat the statute provides that it shall be governed by the rules applying to the Aufsichtsrat of an A.G. unless the articles of incorporation provide to the contrary. The supervisory body in a G.m.b.H. may be called "Aufsichtsrat," "Verwaltungsrat" (Administrative Council) or "Beirat" (Advisory Council). The difference is principally one of name only.

Combinations of German Business Enterprises—Combinations of business enterprises in Germany are much more commonly organized than in the United States. Combination was sometimes compulsory. Under German law and business practice there were numerous forms of combines of business enterprises, among them the following:

1. *"Konzern" (Concern)*—This was defined in German corporation law as a group of legally separate enterprises which, functionally, were under unified direction.

2. *"Interessen-Gemeinschaft" (I.G.)*—This was literally a "community of interests", and was a form rarely used, except in such cases as the joining together of large firms, in a permanent relationship or for a temporary or limited objective.

3. *"Kartell" (Cartel)*—This is a combination of independent business units for the purpose of influencing the market by eliminating or regulating competition among themselves.

4. *"Syndikat" (Syndicate)*—This is a type of cartel with a

centralized sales and control organization, the latter usually in the form of an A.G. or G.m.b.H.

5. *Special Statutory Cartels*—In some instances cartels were created by special statutory provisions giving them official regulatory powers and making membership compulsory for all members of an industry. An outstanding example is found in the compulsory coal syndicate created by a law of 23 March 1919 which replaced the former voluntary syndicates. All coal mining corporations were required to belong to the German coal syndicates. The function of the syndicate, ordinarily set up on a regional basis, was to buy all coal production within the area and to provide a central sales organization. At the same time the syndicate exerted broad control over production. The influence of the individual producer as a member of the syndicate depended upon his share in the total production. The Minister of Economics possessed a veto over the actions and resolutions of the coal syndicates.

IX. THE HERMANN GOERING CONCERN

Foundation and Purpose—By a decree of Hermann Goering in his capacity as Plenipotentiary of the Four Year Plan, dated 15 July 1937, the *Reichswerke A.G. fuer Erzbergbau und Eisenhuetten "Hermann Goering," Watenstedt* (Produktionsgesellschaft —Foundation Company) was founded with an initial capital of RM 5 million (increased in 1938 to RM 400 million).

This company, which in a short period grew to be one of the largest industrial complexes in Europe, was founded in order to implement the Four Year Plan's program.

At the beginning of the Four Year Plan in October 1936, the program of opening up German low-grade deposits (located in the Watenstedt-Salzgitter region, the locale of the Foundation Company of the Reichswerke Hermann Goering) was transferred to a Special Tasks Section of the Amt fuer Deutsche Roh- und Werkstoffe of the Four Year Plan, headed by Paul Pleiger. Pleiger, who was entrusted with the establishing of the Foundation Company, became the chairman and sole member of its Vorstand, while State Secretary Paul Koerner, a personal representative of Hermann Goering, became chairman of its Aufsichtsrat.

This new company was considered a challenge to private industry which had not cooperated with earlier proposals made by Goering and Pleiger that private industry should undertake the opening up of German ore deposits. Private industry had reneged, because the profitability of these German ore deposits was highly questionable. Thus, the founding of the new company

which was Reich-owned, meant that the government assumed the risks contingent upon the mining and processing of the Salzgitter low-grade ore deposits.

Projects and plans for the design of blast furnaces, steel works, rolling mills, coke ovens, gas supplies, and a branch canal for the transportation of coal were quickly gotten under way. By 1938 the opening up of the Salzgitter mines was in full swing. By 1940–1941 the large coke oven works reached an annual capacity of 1.4 million tons. By 1940–1941 pig iron production had reached an annual maximum of 1.2 million tons. The rolling mills reached a capacity of about 600,000 tons and supplied various armament works, including the Stahlwerke Braunschweig G.m.b.H., a subsidiary of the complex, founded in 1939 for the production of bomb and shell bodies and the machining of gun barrels.

The purpose of this Foundation Company was succinctly stated in the 5 December 1940 issue of "Der Vierjahresplan," the official government publication of the Four Year Plan:

> "The founding on 23 July 1937 of the Reichswerke A.G. for Ore Mining and Iron Smelting Plants (fuer Erzbergbau und Eisenhuetten) 'Hermann Goering' signifies a landmark in the development of German ore mining and of the German iron industry. Considerations of war economy have above all determined the decision of the Reichsmarschall [Goering]. After the unhappy outcome of the World War and the loss of extended and highly productive metallic deposits in the West and East, German iron industry was reduced to a great dependency upon foreign supply of raw materials. This dependency grew in the measure in which the German economy, under National Socialistic leadership developed in an ascending curve, and had to create the preconditions for the construction of the armed forces on land, on water, and in the air.
>
> "Here lay one of the most important tasks of the Four Year Plan."

Between July 1937 and December 1940 the Reichswerke expanded rapidly by acquiring within the Reich the majority shares or managerial control of other important industrial companies, such as extensive estates together with quarries, gravel pits, lime kilns, cement works, etc., in the Salzgitter region; Bayerische Berg- Huetten- und Salinenwerke A.G., property of the State of Bavaria; Ilsederhuette, a steel complex associated with the Reich-owned Industrieunternehmungen A.G.; Gewerkschaft Kleiner Johannes, Flick Concern ore mines; Rheinmetall-Borsig A.G., owned by Germany's leading engineering and armament firms; Preussengrube A.G. and Oehringer Bergbau A.G., Petschek coal firms in Upper Silesia; Bergbau A.G. Ewald-Koenig-Ludwig,

Ruhr coal interests confiscated from Friedrich Thyssen interests, etc.

In order to achieve this expansion, certain methods of acquisition were employed, such as, (*a*) direct investments by the Reich; (*b*) transfer of Reich property to the Goering Konzern; (*c*) transfer of property by subordinate German State organizations; (*d*) forced investments by private firms in the Goering Konzern; (*e*) exchange of properties; (*f*) confiscation or expropriation of private property against compensation or without compensation; (*g*) purchase of private property through a grant of shares in the Goering Konzern; (*h*) outright purchase of property at par or above par; and (*i*) direct administration as trustee and manager on behalf of the Reich. (Testimony FEA [Foreign Economic Administration] on German Penetration of European Industry, 26 June 1945, before United States Senate Subcommittee on Military Affairs, pp. 237–239.)

In addition to the expansion within the Reich, with the annexation of Austria, the occupation of the Sudetenland as well as of Polish territory after the outbreak of the war, rapid expansion took place outside of the boundaries of the Reich proper. In Austria the Alpine Montangesellschaft Linz, Austria's largest industrial complex, was acquired; a new company to implement operations was founded, the Reichswerke A.G. fuer Erzbergbau und Huettenbetriebe "Hermann Goering" Linz, with Paul Pleiger as Chairman of the Vorstand, and Paul Koerner as chairman of the Aufsichtsrat. Eventually, this Reichswerke Linz and the Alpine Montangesellschaft were amalgamated under the name of Reichswerke A.G. Alpine Montanbetriebe "Hermann Goering" Linz, with a share-capital of RM 180 million, and became the most important single subsidiary of the Montan Bloc (discussed below). The chairman of the Vorstand of this new company was Paul Pleiger, and his deputy was Hans Malzacher.

At the same time the Goering Konzern managed in Linz the Eisenwerke Oberdonau G.m.b.H., a Wehrmacht undertaking which supplied the German war economy with a significant percentage of tank hulls, turrets, and armour plate.

Next in importance to the Alpine Montanbetriebe in the acquisitions of the Goering Complex in Austria was that of the Erste Donau-Dampfschiffahrtsgesellschaft, Austria's leading Danube shipping company.

In the Sudeten region of Czechoslovakia which includes nearly all the Czechoslovakian brown coal deposits which yielded 26 million tons annually in 1943 and 1944, the Foundation Company of the Hermann Goering Konzern acquired the largest companies.

In addition, in the Sudeten region the Goering Konzern founded

the Sudetenlaendische Bergbau A.G. (SUBAG) with an initial capital of RM 20 million. Under SUBAG was concentrated by complete or partial transfer the mining property of 18 firms, dealing mainly in brown coal mining and auxiliary works.

In the Protectorate (Bohemia and Moravia) the most outstanding acquisitions were the famous Czech armament works of Skoda, and Waffenwerke Bruenn, the steel works of Vitkovice (trusteeship only), and Poldihuette.

After the occupation of Poland in 1939, large sections of Polish coal and heavy industry, directly the property of the Polish State or owned by Jewish groups, were seized by Reich trustees who sold nearly all of them to Reich-owned complexes. For the management and operation of the parts of the confiscated mines which fell to the Goering Konzern, the latter founded a new company, the Bergwerksverwaltung Oberschlesien G.m.b.H.

In the Government General the Goering Konzern took over the management of three highly up-to-date steel and armament works at Ostrowiec, Starachovice, and Stalowa Wola. In the first place were located blast furnaces, steel, rolling mills, and foundries; in the second was a large grenade factory; and in the third, works for the production of artillery pieces and similar items.

In other territories, such as Rumania in the Southeast, and Lorraine, Luxembourg, and France in western Europe, large and productive coal and steel works were put under the administration and management of the Goering Konzern. In Rumania, the Malaxa works, the country's largest engineering and armament complex, thus, came under the management of the Goering Complex in 1941.

Establishment of Reichswerke A.G. "Hermann Goering" (Parent Holding Company)—As early as the middle of 1939, the expansions of the Foundation Company, the Reichswerke A.G. fuer Erzbergbau und Eisenhuetten "Hermann Goering," necessitated the founding of a Parent Holding Company for the purpose of administering the holdings of the Goering Konzern. The founding of this centralizing concern was brought about by the incorporation on 7 July 1939 of the *Reichswerke A.G. "Hermann Goering"* (Parent Holding Company) with an initial capital of RM 100 million. Paul Pleiger became chairman of the Vorstand of this company, and State Secretary Koerner was appointed chairman of the Aufsichtsrat.

First Reorganization December 1940–January 1941—The growing ramifications of the Konzern during the early stages of the war, in addition to strong proposals on the advisability of unification of companies and plants devoted to like production, resulted in a reorganization of all the companies of the Goering

Konzern into three subholding companies—1. the Montan Bloc, 2. the Armament Bloc, and 3, the Shipping Bloc, all subordinate to the Parent Holding Company.

1. The *Montan Bloc* (*Reichswerke A.G. fuer Berg- und Huettenbetriebe "Hermann Goering"*) was incorporated on 17 January 1941 with a share-capital of RM 560 million. Chairman of its Vorstand was Paul Pleiger and of its Aufsichtsrat State Secretary Paul Koerner. As result of this reorganization the Montan Bloc became the most stable and best organically planned part of the Goering Konzern.

2. The *Armament Bloc* (*Reichswerke A.G. fuer Waffen- und Maschinenbau "Hermann Goering"*) was incorporated on 17 January 1941 with a share-capital of RM 80 million. The chairman of its Vorstand was Dr. Wilhelm Voss, and the chairman of its Aufsichtsrat was Helmuth Roehnert. The principal activity of this bloc was the production of armament and machineries of every description.

3. The *Shipping Bloc* (*Reichswerke A.G. fuer Binnenschiffahrt "Hermann Goering"*) was incorporated on 17 January 1941 with a share-capital of RM 12,500,000. The chairman of its Vorstand was Dr. G. Schmidt.

Personnel-wise, the reorganization of the complex into blocs delimited the spheres of influence between Helmuth Roehnert and Paul Pleiger. Until the beginning of 1941 Paul Pleiger was Director General and Chairman of the Vorstand of the Parent Holding Company, and Roehnert was a member of the same. After this date Roehnert succeeded Pleiger as Chairman, and the latter resigned from the board and retired to the Montan Bloc. Furthermore, Roehnert's functions, and Pleiger's Montan Bloc were delegated to Paul Koerner.

With regard to this reorganization, the "Vierjahresplan" states:

> "This generously constructed and clearly organized concern has become, with its numerous highly developed production plants, a gigantic armament forge of the Reich in which are carried through all production processes from the extraction of ore from German soil to tanks ready to go, and to the finished gun. Already at this time there are about 600,000 people active in all enterprises of the concern. This large personnel (Gefolgschaft) works with all its strength for the victory of Greater Germany.
>
> "The Reichswerke 'Hermann Goering' fulfill therewith most important tasks of the war economy. With their broad foundation and their balanced production program, in the sphere of iron production industry as well as iron manufacturing industry, the Reichswerke will constitute an essential factor,

especially in the economy of Greater Germany, also in peacetime." *

Second Reorganization—Liquidation of Parent Holding Company and Armament Bloc—At Watenstedt (site of the Foundation Company), where extensive expansion in construction had been carried on since its beginning, operations for every fiscal year except the last (30 June 1944) were carried on at a loss. In the Montanbetriebe in Austria overproduction had been the rule from the time that these works came under the control of the Konzern; and lack of sufficient modernization of obsolete plants led to poor business results, necessitating considerable overinvestments. These facts, coupled with the growing Reich debt, became a useful argument for the reprivatization of State-owned companies and created a strong point for criticism by private industry of State-owned or controlled industrial companies. In early spring 1942 Speer, who was not entirely in favor of State-owned companies, became Armament Minister. In addition, conflict arose between the Armament Bloc and certain German-controlled Czechoslovakian armament firms. For these reasons in April 1942, by order of Hitler, a second reorganization which in point of fact meant liquidation of part of the Konzern and reprivatization of many companies, went into effect. In December 1942 the assets of the Armament Bloc Subholding Company were fused with the Parent Holding Company (effective 9 Jan. 1943). On 21 January 1943 the Parent Holding Company went into liquidation as an A.G. and was transformed into an inconspicuous limited liability company (G.m.b.H.).

Resulting Structure of the Hermann Goering Complex—Dr. Erich Gritzbach, Chief of Goering's Staff Office, was charged with safeguarding the interests of the Reichswerke Hermann Goering, which Goering placed directly under himself after the dissolution of the Parent Holding Company as an A.G., Paul Pleiger, by order of the Reich Marshal, took over the chairmanship of the Aufsichtsrat of the main enterprises of the Montan Bloc. In addition, Pleiger, who had resigned his position in the Vorstand of the Montan Bloc, in order to assume the above-mentioned Aufsichtsrats' chairmanship, was redelegated to the Vorstand of the main companies of the Montan Bloc by decision of the general meeting (30 Apr. 1942) arrived at in compliance with an order of the Reich Marshal Hermann Goering. Thus, at one and the same time Pleiger was both chairman of the Aufsichtsrat and

* This quotation was taken from an article entitled "The Hermann Goering Works" in the magazine "The Four Year Plan." This article, later introduced as Document NI-002, Prosecution Exhibit 969, is reproduced below in section VI-B.

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of the Vorstand of the Montan Bloc (Subholding Company), Foundation Company, and Alpine Montanbetriebe Linz.

The Shipping Bloc was placed under the direct management of Goering. Later on, the Shipping Bloc was linked up with the Montan Bloc.

In his circular to stockholders of 6 May 1942, regarding the second reorganization, Pleiger states:

> "According to the desire of the Reich Marshal the Hermann Goering Werke are to strengthen the war potential of the Greater German Reich by output and economic consolidation of these deposits and plants (Montan Bloc). Consequently, they shall remain under the prevailing influence of the Reich."

Reprivatization of Property—The major companies of the *Montan Bloc* which went into the process of reprivatization in 1943–44 as a result of the reorganization were—

a. The Alpine Montan (the company) with the Donawitz Steel Work.

b. Reichswerke Hermann Goering at Linz.

c. Three Lorraine works Hayingen [Hayange], Moewern [Moyeuvre], and Hagendingen [Hagendange].

d. Witkowitz [Vitkovice], Upper Silesia.

e. Sudetenlaendische Bergbau A.G. (SUBAG).

f. Sudetenlaendische Treibstoffwerke A.G.

The major companies of the *Armament Bloc* became reprivatized in late 1942 and early 1943.

X. CHART OF ORGANIZATION OF THE NSDAP

[The size and detail of this chart make reproduction impracticable. However, a copy of this chart may be found in the special pocket at the end of volume XXXI, "Trial of the Major War Criminals." This chart, showing the organization and chief personnel of the NSDAP, as of March 1945, was introduced in the IMT trial as Document 2903–PS, Exhibit USA–2.]

*XI. THE LEADERSHIP CORPS OF THE NAZI PARTY**

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XII. THE ORGANIZATION OF THE SS

The agency of the Reich Leader SS and Chief of the German Police (Reichsfuehrer SS und Chef der deutschen Polizei) headed by Heinrich Himmler controlled the police forces of the Reich

* This entire section of the basic information quoted verbatim the Judgment of the International Military Tribunal setting forth its findings on "The Leadership Corps of the Nazi Party," *Trial of the Major War Criminals*, Nuremberg, 1947, volume I, pages 257–262.

and also the "Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei," commonly known as the SS.

The SS was established by Hitler in 1925 as an elite section of the SA for political purposes under the pretext of protecting speakers at public meetings of the Nazi Party. In 1929 Himmler was appointed Reichsfuehrer SS. After the seizure of power the SS was used to maintain order and control audiences at mass demonstrations and was given the additional duty of "internal security" by a decree of the Fuehrer. At the Roehm purge in 1934 the SS played an important role and as a reward for its services was made an independent unit of the Nazi Party shortly thereafter.

The original formation was the Allgemeine (general) SS which by 1939 had grown to a corps of 240,000 men organized on military lines. Other formations of the SS in the years before the war were the Verfuegungsgruppe, composed of SS men who volunteered for 4 years' armed service, and the SS Totenkopfverbaende (or Death Head units) which were special troops employed to guard the concentration camps which came under SS control in 1934.

In the summer of 1939 the Verfuegungsgruppe was equipped as a motorized division to form the nucleus of the forces which in 1940 became known as the Waffen SS (or armed SS). This Waffen SS served under the tactical command of the army but was administered by and under disciplinary control of the SS.

The SS Central Organization had 12 main offices. The most important were:

The RSHA (Reichssicherheitshauptamt or Reich Security Main Office).

The WVHA (Wirtschafts-Verwaltungshauptamt or Economic Administrative Main Office).

The RuSHA (Rasse- und Siedlungshauptamt or Race and Settlement Main Office).

Beginning in 1933 there was a gradual amalgamation of the police and SS. On 17 June 1936 Himmler was appointed Chief of the German Police in the Ministry of the Interior. With decree of 26 June 1936 in his capacity as Reich Leader SS and Chief of the German Police, Himmler placed the Criminal Police or Kripo and the Secret State Police or Gestapo in the Security Police (Sipo) and appointed Heydrich, who was Chief of the Sicherheitsdienst des Reichsfuehrer SS or SD (which had been the intelligence agency, first of the SS and after 4 June 1934 of the entire Nazi Party), Chief of the Security Police .

This consolidation of the Security Police, a State organization, and the SD, a Party organization, was formalized by the decree

of 27 September 1939, which united the various State and Party offices which were under Heydrich as Chief of the Security Police and SD into one administrative unit, the RSHA (Reichssicherheitshauptamt or Reich Security Main Office). The RSHA was divided into seven offices (Aemter). Aemter I and II dealt with administrative matters. The Security Police (Sipo) were represented by Amt IV (the head office of the Gestapo) and Amt V (the head office of the Kripo). The SD was represented by Amt III, the head office for SD activities inside Germany, by Amt VI, the head office for SD activities outside of Germany and by Amt VII, the Office for Ideological Research. Shortly after the creation of the RSHA in November 1939 the Security Police was coordinated with the SS by taking all officials of the Gestapo and Kripo into the SS at ranks equivalent to their positions.

Within Germany and areas incorporated into the Reich the local offices of the Gestapo, Kripo, and SD were formally separated, but coordinated by Inspectors of the Security Police and SD on the staffs of the local Higher SS and Police Leaders. In occupied territories the local units of the Security Police and SD were under the control of the RSHA and the Higher SS and Police Leader. In territories which were considered operational military areas or where German control had not been formally established, members of the Gestapo, Kripo, and SD were joined together into military type organizations known as Einsatzkommandos and Einsatzgruppen, also under the over-all control of RSHA.

Early in 1942, the WVHA (Wirtschafts-Verwaltungshauptamt) was organized under Himmler's order to coordinate and consolidate the administrative work of the SS, and Oswald Pohl appointed chief. Amtsgruppe D (Department D) of the WVHA was responsible for the administration of the entire system of concentration camps including the maintenance and administration of the camps and the use of the inmates as a source of forced labor.

The WVHA and its predecessor the Hauptamt Verwaltung und Wirtschaft managed and controlled a number of economic enterprises which were either owned or controlled by the SS. These enterprises embraced an extensive industrial empire extending from Holland to Poland and Hungary and were operated almost entirely through the use of concentration camp labor. These enterprises included among others the Deutsche Erd- und Steinwerke (DEST), the Klinker Zement, the Ostindustrie (Osti), and the Deutsche Ausruestungswerke (DAW). Oswald Pohl was the Chief of Amtsgruppe W (Department W) which was responsible for the operation and administration of these enterprises and

he was the chief officer of the Deutsche Wirtschaftsbetriebe (DWB) which as a parent holding company owned and controlled these and some twenty other SS business enterprises. Ancillary to Amtsgruppe W was Staff W which exercised general administrative supervision of the W industries, secured new enterprises and handled loans and other financing of these enterprises. The chief of Staff W was initially Hans Hohberg and later Leo Volk and Hans Baier.

The RuSHA (Race and Settlement Main Office) was an office for Germanization of occupied territories according to the racial principles of the Nazi Party.

Also attached to the SS main offices was a "research foundation" known as the Ahnenerbe. During the war an institute for military scientific research became attached to the Ahnenerbe which conducted experiments involving the use of living human beings. The Ahnenerbe was subsidized and under the patronage of the Reich Leader SS.

Gottlob Berger held the rank of Obergruppenfuehrer in the SS and was Chief of the SS Hauptamt which was in charge of recruiting and replacement of SS personnel, ideological training, and recruiting for the SS in foreign countries.

Walter Schellenberg also had the rank of Brigadefuehrer in the SS and was Chief of Amt VI in the RSHA.

Walther Darré held the rank of Obergruppenfuehrer in the SS and was chief of the Race and Settlement Main Office, the predecessor of RuSHA, from 1931 to 1938.

XIII. RANKS IN REICH MINISTRIES

Reichsminister	Reich Minister
Staatsminister	State Minister
Staatssekretaer	State Secretary*
Staatssekretaer zur besonderen Verwendung.	State Secretary for Special Assignments
Botschafter	Ambassador
Botschafter zur besonderen Verwendung.	Ambassador for Special Assignments
Unterstaatssekretaer	Under State Secretary
Reichskabinettsrat	Counsellor of the Reich Chancellery
Ministerialdirektor	Ministerial Director
Gesandter I. Klasse	Minister First Class
Reichspraesidialrat	Counsellor of the Presidential Chancellery
Ministerialdirigent	Ministerial Dirigent
Generalkonsul I. Klasse	Consul General First Class
Gesandter	Minister

* This position is often translated as Under Secretary, since it corresponds in function most closely to the Under Secretary in one of the Executive Departments of the Federal Government of the United States of America.

Vortragender Legationsrat	Senior Counsellor of Legation
Ministerialrat	Ministerial Counsellor
Botschaftsrat	Counsellor of Embassy
Generalkonsul	Consul General
Legationsrat I. Klasse; Gesandtschaftsrat I. Klasse.	Counsellor of Legation First Class
Oberregierungsrat	Senior Government Counsellor
Konsul I. Klasse	Consul First Class
Legationsrat; Gesandtschaftsrat	Counsellor of Legation
Konsul	Consul
Regierungsrat	Government Counsellor
Legationssekretaer	Secretary of Legation
Vizekonsul	Vice Consul
Attaché	Attaché (Official on probation in the service of the German Foreign Office)
Kanzler I. Klasse	Chancellor First Class (Senior Chief Clerk in Embassies, Legations or Consulates)
Amtsrat	Senior Ministerial Clerk
Kanzler	Chancellor (Chief Clerk in Embassies, Legations or Consulates)
Amtmann	Ministerial Clerk
Konsulatssekretaer I. Klasse	Consular Secretary First Class
Oberinspektor	Senior Government Clerk
Konsulatssekretaer	Consular Secretary
Inspektor	Government Clerk

XIV. OATH OF REICH MINISTERS

1934 REICHSGESETZBLATT, PART I, PAGE 973

German Law on the oath of the Reich Ministers and members of the State Governments of 16 October 1934

Section 1

When taking office, the Reich Ministers swear the following oath before the Fuehrer and Reich Chancellor:

"I swear: I shall be faithful and obedient to the Fuehrer of the German Reich and nation, Adolf Hitler, devote my strength to the welfare of the German nation, observe the laws, fulfill conscientiously my duties and act impartially and justly towards everybody, so help me God."

Section 3

The Reich Ministers now in office are to be sworn in immediately in conformity with Section 1.

Berlin, 16 October 1934.

The Fuehrer and Reich Chancellor
ADOLF HITLER

The Reich Minister of the Interior
FRICK

1937 REICHSGESETZBLATT, PART I, PAGES 39, 42, AND 66

German Civil Service Act of 26 January 1937

Part XIII

Section 157

(1) When taking office, the Reich Minister swears the following oath before the Fuehrer and Reich Chancellor:

"I swear: I shall be faithful and obedient to the Fuehrer of the German Reich and nation, Adolf Hitler, devote my strength to the welfare of the German nation, observe the laws, fulfill my duties and act impartially and justly towards everybody, so help me God."

(2) Section 4, paragraphs (2) and (3) are applicable.*

Berlin, January 26, 1937

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Minister of the Interior
FRICK
The Reich Minister of Finance
GRAF SCHWERIN VON KROSIGK

XV. OATH OF CIVIL SERVANTS

1934 REICHSGESETZBLATT, PART I, PAGE 785

German Law on the swearing-in of civil servants and soldiers of the armed forces of 30 August 1934.

Section 2

(1) The oath of the public officials is worded as follows:

"I swear: I shall be faithful and obedient to the Fuehrer of the German Reich and nation, Adolf Hitler, obey the laws and fulfill conscientiously the duties of my office, so help me God."

Berlin, 30 August 1934

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Minister of the Interior
FRICK
The Reich Minister of Defense
VON BLOMBERG

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* Section 4, paragraphs (2) and (3) of the German Civil Service Act of 26 January 1937, is reproduced in the next section (XV) of this "Basic Information."

1937 REICHSGESETZBLATT, PART I, PAGES 39, 42, AND 66

German Civil Service Act of 26 January 1937

Part II

2. Oath

Section 4

(1) The Official confirms his special allegiance to the Fuehrer and Reich Chancellor by the following oath, which he must take when taking office for the first time:

"I swear: I shall be faithful and obedient to the Fuehrer of the German Reich and nation, Adolf Hitler, obey the laws and fulfill conscientiously the duties of my office, so help me God."

(2) If a law allows the members of a religious organization to use another form or affirmation instead of an oath, an official who is a member of such a religious organization may use that form.

(3) An official may take the oath without the closing words if he objects to taking the oath in the religious form.

Berlin, 26 January 1937

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Minister of the Interior
FRICK
The Reich Minister of Finance
GRAF SCHWERIN VON KROSIGK

XVI. LIST OF CABINET MEMBERS AND CABINET ASSOCIATES

AXMANN, ARTHUR	Reich Youth Leader entitled to take part in Cabinet meetings if his jurisdiction was concerned, 10 August 1940—March 1945. Interned by the British.
BACKE, HERBERT	State Secretary of Food and Agriculture, 23 May 1942—March 1945, serving also as acting Minister. Committed suicide.
VON BLOMBERG, WERNER EDUARD FRITZ.	Reich Minister of Defense (title changed to Minister of War in March 1935), 30 January 1933—4 February 1938. Deceased.

BOHLE, ERNST WILHELM	Chief of the Foreign Organization of the NSDAP in the Foreign Office entitled to take part in Cabinet meetings when his jurisdiction was concerned, 30 January 1937—March 1945. On trial in this case.
BORMANN, MARTIN	Leader of the Party Chancellery and a member of the Cabinet with authority of a Reich Minister, 29 May 1941—March 1945. Sentenced to death by the IMT.
VON BRAUCHITSCH, WALTHER H. A. H.	Commander in Chief of the Army with the rank of Reich Minister, 25 February 1938—21 December 1941.
DARRÉ, WALTHER R. O.	Reich Minister of Food and Agriculture, 30 June 1933—March 1945. On trial in this case.
DIETRICH, OTTO	Press Chief of the Reichsregierung entitled to participate in Cabinet meetings, 26 November 1937—March 1945. On trial in this case.
DOENITZ, KARL	Commander in Chief of the Navy with the right to sit in Cabinet meetings, 30 January 1943—May 1945. Sentenced to 10 years' imprisonment by the IMT.
DORPMUELLER, JULIUS	Reich Minister of Transport, 2 February 1937—March 1945.
VON ELTZ-RUEBENACH, PAUL.	Reich Minister of Posts and Reich Minister of Transport, 30 January 1933—2 February 1937. Resigned and deceased.
FRANK, HANS	Governor General of Poland; Reich Minister without Portfolio, 19 December 1934—March 1945. Sentenced to death by the IMT.
FRANK, KARL HERMANN.	State Minister of the Protectorate of Bohemia and Moravia with the rank of Reich Minister, 25 August 1934—March 1945. Sentenced to death by a Czech war crimes court.

FRICK, WILHELM ..... Reich Minister of the Interior, 30 January 1933—25 August 1943; retained the title of Reich Minister upon his appointment 25 August 1943 as Reich Protector for Bohemia and Moravia. Sentenced to death by the IMT.

VON FRITSCH, WERNER .. Commander in Chief of the Army with the rank of Reich Minister, 20 April 1936—4 February 1938. Deceased.

FUNK, WALTHER ..... Press Chief of the Reichsregierung, 30 January 1933—26 November 1937; Reich Minister of Economics, 15 January 1938—March 1945. Sentenced to life imprisonment by the IMT.

GOEBBELS, PAUL JOSEF .. Reich Minister of Public Enlightenment and Propaganda, 13 March 1933—March 1945. Committed suicide.

GOERING, HERMANN ..... Reich Minister without portfolio, 30 January 1933; Reich Minister of Air, 5 May 1933—March 1945; Reich Forest Master with the authority of a Reich Minister, 12 July 1934—March 1945. Sentenced to death by the IMT; committed suicide.

GUERTNER, FRANZ ..... Reich Minister of Justice, 1 February 1933—29 January 1941. Deceased.

HESS, RUDOLF ..... Deputy of the Fuehrer and "member of the Reich Cabinet", 1 December 1933—27 May 1941. Sentenced to life imprisonment by the IMT.

HIERL, KONSTANTIN ..... Reich Labor Leader, given the right on January 1937 to participate in Cabinet meetings when his jurisdiction was involved and given the power of a Reich Minister, 20 August 1943.

HIMMLER, HEINRICH .... Chief of the German Police in the Reich Ministry of Interior with the right to take part in Cabinet meetings if his jurisdiction was involved, 17 August 1936; made Reich Minister of the Interior, 25 August 1943. Committed suicide.

HUGENBERG, ALFRED	Reich Minister of Economics and Reich Minister of Food and Agriculture, 30 January 1933—29 June 1933.
KEITEL, WILHELM	Chief of the OKW with the rank of Reich Minister, 4 February 1938—March 1945. Sentenced to death by the IMT.
KERRL, HANS	Reich Minister Without Portfolio, 16 June 1934, and Reich Minister for Church Affairs, 16 July 1935—13 December 1942. Deceased.
LAMMERS, HANS HEINRICH	Chief of the Reich Chancellery, appointed State Secretary and Chief of the Reich Chancellery, 30 January 1933, and as Reich Minister, 26 November 1937. On trial in this case.
MEISSNER, OTTO	State Minister and Chief of the Presidential Chancellery with the rank of Reich Minister, 1 December 1937. On trial in this case.
MUHS, HERMANN	Acting as Reich Minister of Church Affairs, 3 February 1942—March 1945.
VON NEURATH, CONSTANTIN U. K.	Reich Minister of Foreign Affairs, 30 January 1933—4 February 1938, retained the title of Reich Minister upon appointment as President of the Secret Cabinet Council, 4 February 1938. Sentenced to fifteen years' imprisonment by IMT.
OHNESORGE, WILHELM	Reich Minister of Posts, 2 February 1937—March 1945.
VON PAPEN, FRANZ	Vice Chancellor, 30 January 1933—30 July 1934. Acquitted by IMT.
POPITZ, EDUARD H. J.	Prussian Finance Minister with the right to take part in Cabinet meetings 30 January 1933—July 1944. Killed in connection with the 20 July 1944 events.
RAEDER, ERICH	Commander in Chief of the Navy with the rank of Reich Minister, 20 April 1936, and the right to sit in Cabinet meetings, 25 February 1938—30 January 1943. Sentenced to life imprisonment by the IMT.

VON RIBBENTROP, JOACHIM	Reich Minister of Foreign Affairs, 4 February 1938—March 1945. Sentenced to death by the IMT.
ROEHM, ERNST	Chief of the SA and "a member of the Reich Cabinet", 1 December 1933—30 June 1934. Killed on 30 June 1934.
ROSENBERG, ALFRED	Reich Minister for the Occupied Eastern Territories, 17 July 1941—March 1945. Sentenced to death by the IMT.
RUST, BERNHARD	Reich Minister of Education, 1 May 1934—March 1945. Committed suicide.
SCHACHT, HJALMAR	Acting as Reich Minister of Economics, 30 July 1934—26 November 1937, and Reich Minister without Portfolio, 26 November 1937—21 January 1943. Acquitted by the IMT.
VON SCHIRACH, BALDUR	Reich Youth Leader with the right to take part in Cabinet meetings, 1 December 1936—10 August 1940. Sentenced to twenty years' imprisonment by the IMT.
SCHLEGELBERGER, FRANZ	Acting as Reich Minister of Justice, 29 January 1941—20 August 1942. Sentenced to life imprisonment by the United States Military Tribunal III.
SCHMITT, KURT	Reich Minister of Economics, 30 June 1933—30 July 1934.
SCHWERIN VON KROSIGK, LUTZ	Reich Minister of Finance, 30 January 1933—March 1945. On trial in this case.
SELDTE, FRANZ	Reich Minister of Labor, 30 January 1933—March 1945. Deceased.
SEYSS-INQUART, ARTHUR	Reich Minister without Portfolio, 1 May 1939—March 1945. Sentenced to death by the IMT.

SPEER, ALBERT ——— Reich Minister of Armament and War Production (Originally known as Reich Minister of Arms and Munitions), 9 February 1942—May 1945; Inspector General of German Highways and Inspector General of Water and Power with the authority of a Reich Minister, 9 February 1942—May 1945. Sentenced to 20 years' imprisonment by the IMT.

THIERACK, OTTO ——— Reich Minister of Justice, 20 August 1942—March 1945. Committed suicide.

TODT, FRITZ ——— Minister of Arms and Munitions, 17 March 1940—8 February 1942; Inspector General of German Highways with the authority of a Reich Minister, 3 April 1941—8 February 1942, and Inspector General for Water and Power with the authority of a Reich Minister, 29 July 1941—8 February 1942. Deceased.

XIX. ABBREVIATIONS USED IN THE FOREIGN OFFICE

A.A. ——— Auswaertiges Amt
(Foreign Office)

Anl. ——— Anlage
(enclosure)

A.O. ——— Auslandsorganisation der NSDAP
(Foreign Organization of the NSDAP)

B.R.A.M. ——— Buero des Reichsaussenministers
(Office of the Reich Foreign Minister)

D ——— Abteilung Deutschland
(Division Germany)

Dg. ——— Dirigent, Ministerialdirigent
(Ministerial Dirigent)

Dg. Pol. ——— Dirigent der Politischen Abteilung
(Dirigent of the Political Division)

Dir. ——— Direktor, Ministerialdirektor
(Ministerial Director)

Geh.Chiff.Verf. ——— Geheimes Chiffrierverfahren
(Secret cipher-code)

Geh. ——— Geheim
(Secret)

ges. ——— gesehen
(seen)

Gew.Chiff.Verf. ——— Gewoehnliches Chiffrierverfahren
(cipher-code)

gez. ---------- gezeichnet
(signed)
G. R. ---------- Gesandtschaftsrat
(Counsellor of Legation)
Ha. Pol. ---------- Handelspolitische Abteilung
(Economic Policy Division)
i.A. ---------- im Auftrag
(by order)
Inf. ---------- Informationsabteilung
(Information Division)
Inl. I ---------- Abteilung Inland I
(Inland Division I)
Inl. II ---------- Abteilung Inland II
(Inland Division II)
i.R. ---------- in Reinschrift
(original, to be signed)
i.V. ---------- in Vertretung
(as deputy)
Kult, Kult.Pol. ---------- Kulturpolitische Abteilung
(Cultural Policy Division)
L.R. ---------- Legationsrat
(Counsellor of Legation)
L.S. ---------- Legationssekretaer
(Secretary of Legation)
n.A. ---------- nach Abgang
(after dispatch)
P ---------- Presseabteilung
(Press Division)
Pers. ---------- Personalabteilung
(Personnel Division)
Pol. I M ---------- Militaerreferat
(Section for military affairs)
Prot. ---------- Protokoll
(Protocol Division)
R ---------- Rechtsabteilung
(Legal Division)
R.A.M. ---------- Reichsaussenminister
(Reich Foreign Minister)
Ref. ---------- Referent oder Referat
(Adviser or Section)
R.M. ---------- Reichsminister
(Reich Minister)
Ru ---------- Rundfunk Abteilung
(Broadcasting Division)
St.S. ---------- Staatssekretaer
(State Secretary)
St.S.z.b.V. ---------- Staatssekretaer zur besonderen Verwendung
(State Secretary for Special Assignments)
Tel. ---------- Telegramm
(Telegram)
Telko ---------- Telegrammkontrolle
(control of telegrams)
U.St.S. ---------- Unterstaatssekretaer
(Under State Secretary)

U.St.S.Pol. ——— Unterstaatssekretaer, Leiter der Politischen Abteilung (Under State Secretary, Chief of the Political Div.)

v.A. ——— vor Abgang (before dispatch)

V.L.R. ——— Vortragender Legationsrat (Senior Counsellor of Legation)

wvzl. ——— wiedervorzulegen (is to be re-submitted)

z.d.A. ——— zu den Akten (settled matter, to be filed)

z. K. ——— zur Kenntnisnahme (for information)

z. Mitz. ——— zur Mitzeichnung (for co-signature)

XX. GLOSSARY

Some German Terms and Expressions used in connection with Case 11

A.A. (abbreviation for "Auswaertiges Amt")	German Foreign Office
Abschluss (Bilanz)	(annual) balance sheet
Abteilung Auslandspresse	Division of Foreign Press
Abteilung Deutsche Presse	Division of German Press
Abteilungsdirektor	Section chief; Department chief
Abwicklung	Winding up; liquidation (of an enterprise)
Adolf Hitler Spende der deutschen Wirtschaft	Adolf Hitler Fund of German Trade and Industry
Aktenzeichen	Reference on a letter; file reference; serial number
Aktie	Share, stock
Aktiengesellschaft	Stock Corporation
Aktiengesetz	Stock corporation act, stock corporation law
Aktienkapital	Capital stock; share capital
Aktionaer	Shareholder; stockholder
Aktiva	Assets
Amt	Office; bureau; department; agency
Amtseid	Oath of Office
Amt fuer Agrarpolitik	Office for Agrarian Policy
Anweisung, Hinweisung, Weisung	Instruction or directive
Arbeitsamt	Employment Office, labor office
Arbeitsbedingungen	Terms of employment; conditions of work
Arbeitsbuch	Employment book, work book
Arbeitseinsatz	Labor allocation or utilization of labor
Arbeitsfront, Deutsche—DAF	German Labor Front
Arbeitslager	Labor camp or work camp
Arisierung	Aryanization
Aufruestung	Rearmament
Aufsichtsrat	"supervisory board of directors" (often not translated, since no exact American equivalent)

Aufsichtsratsitzung	Aufsichtsrat meeting
Ausfuhr	Export
Ausgabe	Edition, issue
Ausschuss	Committee
Bankenkonsortium	Syndicate of banking houses
Barkredit	Cash credit
Beauftragter	Agent (if government function: plenipotentiary)
Beirat	Advisory board, advisory council
Beraubung	Spoliation
Bergbau	Mining
Beschlagnahme	Sequestration or seizure
Besitz	Possession
Betrieb	Plant, enterprise, establishment
Bevollmaechtigter	Agent (if government function: plenipotentiary)
Bezirk	District
Bezirksgruppe	District group
B.H.O. (abbreviation for "Berg- und Huettenwerksgesellschaft Ost m.b.H.")	A special corporation set up to operate in the occupied East
Bilanzpruefer	Auditor
Block	Smallest Party unit, headed by a block leader
Blutschutzgesetz (Gesetz zum Schutze des deutschen Blutes und der deutschen Ehre)	Law for the protection of German blood and honor, dated Sept. 15, 1935 (RGBl. I p. 1146)
Braunkohle	Lignite or brown coal
Buergermeister	Mayor
DAF (abbreviation for "Deutsche Arbeitsfront")	German Labor Front
Darlehen	Loan
Deutsche Rentenbank Kredit-Anstalt	German agricultural credit bank (under supervision of the Reich Finance Ministry)
Deutscher Gemeindetag	German Municipal League
Deutscher Wochendienst	German Weekly Service
Devisengesetz	Foreign exchange law
Devisenstelle	Office for foreign currency control
Direktor	A manager (title given to a member of the Vorstand or to a manager of a corporation, plant or division), director
DNB (Deutsches Nachrichten Buero)	German News Bureau [official German wire service]
Eigentum	Property or ownership
Einbuergerung	Naturalization
Einkommensteuer	Income tax
Einkommensteuergesetz	Income tax law
Einziehung	Confiscation
Enteignung	Expropriation, confiscation
Entjudung	"de-Judaization"; elimination of Jews from public or economic life

e. V. (abbreviation for "Eingetragener Verein")	Chartered association
Ernaehrungsamt	Food office
Fachgruppe	A subgroup of a "Wirtschaftsgruppe" (Economic Group)
Feindliches Eigentum	Enemy property
Feindvermoegen	Enemy property
Fernschreiber	Teletype
Finanzamt	Internal revenue office
Formulierung	Formulation
Fuehrerprinzip	Leadership principle
Gau	Regional unit of the Nazi Party, the main administrative Party unit, subdivided into Kreise-Ortsgruppen-Zellen-Bloecke
Gauleiter	Regional leader of the NSDAP for the Gau
Gaupresseamt	Gau Press Section
Gaupressestelle	Gau Press Office
Gauwirtschaftsberater	Gau Economic Adviser
Gauwirtschaftskammer	Gau Economic Chamber
Geheim	Secret
Geheime Kommandosache	Top secret (Military matters)
Geheime Reichssache	Top secret (Civilian matters)
Geheime Staatspolizei (Gestapo)	Secret State Police
G.m.b.H (abbreviation for "Gesellschaft mit beschraenkter Haftung")	Limited liability corporation
Gemeindeverfassung	Municipal constitution
Gemeindliche Selbstverwaltung	Municipal self-government
Generalbevollmaechtigter	Plenipotentiary General
Generaldirektor	General manager (title given to the Vorstand chairman or chief manager of a corporation)
Generalinspekteur des Zollgrenzschutzes.	Inspector General of the Customs Border Force
Generalversammlung	Stockholders' meeting (called "Hauptversammlung" after Stock Corporation Law (Aktiengesetz) of 1937); general meeting
Generalvollmacht	General power of attorney
Gendarmerie	Rural police
Gesamtkonzern	Total concern
Geschaeftsanteil	Participation share
Geschaeftsfuehrer	Manager
Geschaeftsfuehrung	Management
Geschaeftsordnung	Rules of procedure
Gesellschaftsvertrag	Articles (or certificate) of incorporation, articles of a partnership (called "Satzung" after Stock Corporation Law (Aktiengesetz) of 1937)
Gesetz	Law, statute, act

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Gestapo (abbreviation for "Geheime Staatspolizei")	Secret State Police
Grossbank	Big bank; large banking house
Grube	Pit, mine
Grundbesitz	Real estate; landed property
Grundkapital	Capital stock
Handel	Trade; commerce
Handelsregister	Commercial Registration Office, trade register
Handlungsbevollmaechtigter	Employee with power of attorney; entitled to bind his firm by his signature, either generally or for a specified type of transaction
Hauptamt	Main office
Hauptausschuss	Main committee
H.T.O. (abbreviation for "Haupttreuhandstelle Ost")	"Main Trustee Office East," a special Reich agency for occupied Poland
Hauptvereinigung	Central Marketing Association
Hauptversammlung	Stockholders' meeting (after Stock Corporation Law of 1937)
Hoeherer SS- und Polizeifuehrer	Higher SS and Police Leader
H.W.A. (abbreviation for "Heereswaffenamt")	Army Ordnance Office
Hypothek	Mortgage
Industrie	Industry
Journalist	Journalist
Judenabgabe	Jewish atonement fine (of 12 November 1938)
Kapitalverflechtung	Interlacing of capital
Kartell	Cartel
Konsortial-Abteilung	Syndicate department
Konzentrationslager	Concentration camp
Konzern	Combine, Concern
Konzernspitze	Top combine company; parent company
Kreisbauernfuehrer	County Peasant Leader
Kreisbauernschaft	County Peasant Association
Kriegsgefangener	Prisoner of war
Kriegswirtschaft	War economy
Kreisleiter	Party leader of the NSDAP for a district
Kriminalpolizei	Criminal police
K.Z. (abbreviation for "Konzentrationslager")	Concentration camp
Lager	Camp
Landesbauernfuehrer	Regional Peasant Leader
Landesbauernschaft	Regional Peasant Association
Landesernaehrungsamt	Regional Food Office
Landesfinanzamt	Regional Internal Revenue Office
Landeshauptabteilung	Regional Main Division
Landesmuenzstaette	State mint

Landrat	County manager (executive official of a Landkreis)
Landwirtschaftskammern	Chambers of Agriculture
Leiter	Leader
Lombardkredit	Loan upon collateral security
MdR (abbreviation for "Mitglied des Reichstags")	Member of the German Diet
Mitglied	Member
Mitgliedsversammlung	Membership meeting
Mob (abbreviation for "Mobilisierung")	Mobilization
Muenzmetalldepot	Reich depository for coinage metals under the supervision of the Reich Finance Ministry
Muttergesellschaft	Parent company
NSDAP (abbreviation for "Nationalsozialistische Deutsche Arbeiterpartei")	National Socialist German Workers Party (Nazi Party)
NSK (Nationalsozialistische Korrespondenz)	National Socialist Party correspondence or press reports
Nationalsozialistische Deutsche Arbeiterpartei	Nazi Party
Oberfinanzpraesident	Chief of a regional internal revenue office
Oberkommando des Heeres (abbreviated OKH).	High Command of the Army
Oberkommando der Luftwaffe (abbreviated OKL)	High Command of the Air Force
Oberkommando der Marine (abbreviated OKM)	High Command of the Navy
Oberkommando der Wehrmacht (abbreviated OKW)	High Command of the Armed Forces
Oberpraesident	Provincial Governor (in Prussia the chief official of a province)
Offene Handelsgesellschaft (abbreviated O.H.G.)	Partnership
Ordnungspolizei	Regular police
Ortsbauernfuehrer	Local Peasant Leader
Ortsbauernschaft	Local Peasant Association
Ortsgruppenleiter	Local party leader of the NSDAP
Ostarbeiter	"Eastern workers," workers from eastern occupied areas
Ostarbeiterabgabe	Eastern workers tax
Parteigenosse	Party member
Patenschaft	Sponsorship
Persoenlich Haftender Gesellschafter	General partner
Pflichtkartell	Compulsory cartel
Pg (abbreviation for "Parteigenosse")	Member of NSDAP
Planungsamt	Planning office
Pluenderung	Plunder or pillage
Polizeiverfuegung	Police order

Polizeiverordnung	Police ordinance (addressed to the public in general)
Portefeuille (of a bank)	Holdings; portfolio
Praesidium	Presidium
Presseabteilung	Press division
Pressekonferenz	Press conference
Prokurist	Employee with a general power of attorney
Protokoll	Minutes; record; statement
R.A.M. (abbreviation for "Reichsaussenminister" also used for "Reichsarbeitsministerium")	Reich Foreign Minister (also Reich Labor Ministry)
Raub (or Beraubung)	Spoliation
Rechnungsamt	Regional accounting office to examine the budgets of the regions under the supervision of the Rechnungshof
Rechnungshof des Deutschen Reiches	Supreme Reich agency responsible for the control and supervision of execution of the Reich Budget
Redakteur	Editor
Regierungspraesident	District president; highest official in the district; also the title of the representative of the Reich in the Sudetenland
Regierungsbezirk	Administrative district; subdivision of a Prussian province and of the Bavarian state
Reichsabgabenordnung (abbr. RAO)	Reich statute of taxation dated 13 Dec. 1919, altered several times subsequently
Reichsarbeitsfuehrer	Reich Labor Leader, established as supreme government agency by decree of 20 August 1943 (RGBl.I,p.495)
Reichsarbeitsministerium (abbreviated R.A.M.)	Reich Labor Ministry
Reichsarchiv	Reich archives under supervision of the Ministry of the Interior
Reichsangehoerigkeit	Reich citizenship
Reichsbauernfuehrer	Reich Peasant Leader
Reichsbaudirektion	Reich Government Building Administration
Reichsbank	National Bank of Germany, founded in 1875, was transformed in 1924 as an independent bank of the national government, placed under the control of the so-called Generalrat. By laws of 27 October 1933 (RGBl II, p. 827) and of 10 February 1937 (RGBl II, p. 47) the Generalrat as well as the independence from the German Government were abolished; by act of 15 June 1939 (RGBl I p. 1015) the Reich Bank was placed under the immediate control of the Fuehrer; it is the only bank of issue; administered by the Reich Bank directorate.
Reichsbeauftragter	Reich Commissioner
Reichsbewertungsgesetz	Reich appraisal law, dated 16 October 1934

Reichsbuergschaft	Reich guaranty
Reichsdienststrafhof	Reich civil service disciplinary court
Reichsfinanzhof	Reich Finance Court in Munich, the highest appellate authority in matters of taxation; under supervision of the Reich Finance Ministry
Reichsfinanzministerium (abbreviated R.F.M.)	Reich Finance Ministry
Reichsfluchtsteuer	Reich emigration tax, based on laws of 8 December 1931, 8 May and 16 October 1934
Reichsfuehrer SS und Chef der Deutschen Polizei im Reichsministerium des Innern	Reich Leader SS and Chief of the German Police in the Reich Ministry of the Interior
Reichsgesetzblatt (abbreviated RGBl)	Reich Law Gazette
Reichsgesundheitsamt	Reich Office of Public Health under supervision of the Ministry of Interior
Reichsgruppe	Reich Group
Reichshauptabteilung	Central Main Division
Reichshauptkasse	German Treasury at Berlin under supervision of the Reich Finance Ministry, affiliated with the Reich Bank
Reichshaushalt (ordentlicher Haushalt) (ausserordentlicher Haushalt)	Reich budget (ordinary budget) (extraordinary budget)
Reichskommissar	Reich commissioner
Reichskreditkasse	Reich credit bank, established in occupied territories as itinerant bank or credit institution, supervised by head offices in Berlin, affiliated with the Reich Bank
Reichskreditkassenschein	Reich credit bank note, issued by Reichskreditkassen also called soldier's money or occupation mark
Reichskulturkammer	Reich Chamber of Culture
Reichskulturkammergesetz	Reich Chamber of Culture Law
RKM (abbreviation for "Reichskriegsministerium")	Reich War Ministry
RLM (abbreviation for "Reichsluftfahrtministerium")	Reich Air Ministry
Reichsleiter	Reich leader of the NSDAP, one of the highest party officials
Reichsministerialblatt	Reich Ministerial Gazette
Reichsministerium fuer Ruestung und Kriegsproduktion (Speer Ministry)	Reich Ministry for Armament and War Production
Reichsmonopolverwaltung fuer Branntwein	Reich Alcohol Monopoly Administration under supervision of the Reich Finance Ministry
Reichsmuenzstaette	Reich Mint
Reichsnaehrstand	Reich Food Estate
Reichsschatzanweisung	Reich treasury bond
Reichsschatzwechsel	Reich treasury promissory note

Reichssippenamt	Reich office for ancestry research under supervision of the Ministry of the Interior
Reichspressechef der NSDAP	Reich Press Chief of the NSDAP
Reichspressechef der Regierung	Reich Press Chief of the government
Reichspressestelle	Reich Press Office
Reichsstelle	Reich Office
Reichsstellen	Reich agencies or offices
Reichstag	German Diet
Reichsstatthalter	Reich governor (established by law of 30 January 1935. RGBl, p. 65 converting Germany into an Einheitsstaat in which the Reich governors enjoy Reich authority in the states)
Reichsstelle fuer das Auswanderungswesen	Reich Emigration Office under supervision of the Reich Ministry of the Interior
Reichssportamt	Reich Sports Office under supervision of the Reich Ministry of the Interior
Reichsverband der Deutschen Industrie	Reich Association of German Industry
Reichsverband der Deutschen Presse	Reich League of the German Press
Reichsverlagsamt	Reich Publishing Office for publishing and distributing official publications, under the supervision of the Reich Ministry of the Interior
Reichsverwaltungsgericht	Reich Supreme Administrative Court established by decree of 3 April 1941 (RGBl I P. 201) and decree of 29 April 1941 (RGBl I p. 224-6) as the supreme court of appeals for administrative jurisdiction, in lieu of the hitherto existing state administrative courts
Reichsvereinigung	Reich association
Reichsvereinigung Kohle (abbreviated RVK)	Reich Association Coal
Reichswirtschaftsministerium (abbreviated RWM)	Reich Ministry of Economics
Richtlinie	Guiding principle
Richtlinien	Directives
Rohstoff	Raw material
Ruestungsamt	Armaments Office (a department in Ministry of Armaments and War Production); Armaments Department
Ruestungslieferungsamt	Armament Supply Office
Ruestungswirtschaft	Armament economy
Saldo	Balance
Satzung	Articles of incorporation
S-Betrieb	Protected plant
Schatzanweisungen	Treasury certificates
Schatzwechsel	Treasury bills
Schriftleiter	Editor
Schriftleitergesetz	Editorial Control Law

Schriftsteller	Author, writer
Schutzhaft	Protective custody
Sicherheitspolizei (abbreviated Sipo)	Security police
Sondervermoegen	Marshalled property
Staatsgeheimnis	State secret
Staatssekretaer	State Secretary
Stammkapital	Capital stock
Steinkohle	Bituminous coal or soft coal
Stellvertreter	Deputy
Steuergutschein	Tax-voucher, tax rebate certificate given to respective taxpayers in anticipation of tax payments
Strafgefangener	Convict
Syndikat	Syndicate
Tagesparole, Sprachregelung	Daily directive, parole, instruction, communication
Tochtergesellschaft	Subsidiary company
Treuhaender	Trustee or custodian
Umsatzsteuer	Sales tax
Unternehmen	Enterprise
Verkehrpolizei	Traffic police
Verleger	Publisher
Vermoegenssteuer	Property tax
Verordnung	Decree or ordinance
Vertraulich	Confidential
Verwaltungsamt des Reichsbauernfuehrers	Administration Office of the Reich Peasant Leader
Verwaltungssondervermoegen	Property marshalled for administration
Verlust	Loss
Vertrag	Contract; agreement
V. I. (Vertrauliche Information)	Confidential report or information
Vierjahresplan	Four Year Plan
Vorsitzender, Vorsitzer	Chairman
Vorstand	"Managing board of directors"
Vorstandsmitglied	Member of a Vorstand
Wehrwirtschaft	Military economy, war economy
Wehrwirtschaftsfuehrer	Military Economy Leader
Werkstoffe	Synthetics, substitutes, processed materials
Wirtschaft	Economy or business
Wirtschaftsgruppe	Economic Group
Wirtschaftsgruppe Bergbau	Economic Group Mining Industry
Wirtschaftspruefer	Certified auditor
Wirtschaftssondervermoegen	Property marshalled for national economy
Wirtschaftsverband	Regional Marketing Association
ZD (Zeitschriftendienst)	Periodical or magazine service
Zeitschriftenpresse	Periodical press
Zensur, Vorzensur, Nachzensur	Censor, pre-censor, post-censor
Zentralabteilung	Central department

V. OPENING STATEMENTS

A. Introduction

The opening statements for the prosecution and for the individual defendants indicate more concisely than any other part of the record the general theories of the case upon which the parties proceeded. For this reason, and in spite of severe space limitations, this section reproduces in their entirety the opening statement of the prosecution and the opening statements on behalf of each of the twenty-one individual defendants. In these opening statements numerous references are made to evidence to be offered or which already had been offered. Some of this evidence is reproduced in later sections of this volume, but page limitations have prevented the reproduction of most of it. The reader interested in evidence mentioned in the argumentation but not reproduced hereinafter is referred to the official mimeographed record. This record includes the document books of both the prosecution and the defense as well as the transcript of the daily proceedings.

Further argumentation in the case is reproduced in section VIII, volume XIII, (Atrocities and Offenses Committed against German Nationals—count four) and in section XIII, volume XIV, (Closing Statements).

B. Opening Statement for the Prosecution*

THE MARSHAL: The Honorable, the Judges of Military Tribunal IV. Military Tribunal IV is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

PRESIDING JUDGE CHRISTIANSON: Mr. Marshal, are the defendants all present in the courtroom?

THE MARSHAL: May it please Your Honors, all the defendants are present in the court except Meissner, sick in hospital.

PRESIDING JUDGE CHRISTIANSON: Dr. Sauter, you are counsel for Mr. Meissner, are you not?

DR. SAUTER: Yes. He is still in the hospital and he is expected to go to Munich in a few days so that he can undergo his second operation.

PRESIDING JUDGE CHRISTIANSON: I understand it is agreeable to you that we proceed in his absence?

DR. SAUTER: Certainly, Your Honor. I have seen my client about this. I have explained to him the advantages and disad-

* The opening statement for the prosecution was delivered on 6 January 1948 (*tr. pp. 17–151*). The closing statement of the prosecution and rebuttal closing statement of the prosecution are reproduced in section XIII, volume XIV this series.

vantages of these proceedings. He himself is a legal expert and he has asked me to express his wish to the Tribunal that it should proceed against him in his absence. As soon as he is in a position to appear before this Court he will do so without hesitation, in order to be at the Court's disposal. We are therefore quite agreeable to the suggested procedure.

PRESIDING JUDGE CHRISTIANSON: Very well. He will be excused for the time being and we will proceed in his absence.

DR. SAUTER: Thank you very much, Your Honor.

PRESIDING JUDGE CHRISTIANSON: Is the prosecution prepared to make its opening statement at this time?

GENERAL TAYLOR: Yes, Your Honor.

PRESIDING JUDGE CHRISTIANSON: Very well. We will now hear you.

GENERAL TAYLOR: May it please Your Honors.

PRESIDING JUDGE CHRISTIANSON: General Taylor.

GENERAL TAYLOR: This case is wider in scope and variety than any other which has been brought before these Military Tribunals. It is not limited to crimes charged against the leaders of a single agency of the Third Reich, such as the army or the SS, or of a single industrial enterprise, such as I.G. Farben or Krupp, or of a single German profession, such as the law or medicine. There are no members of the Wehrmacht in the dock, but with this exception the defendants are drawn from nearly every important sphere of activity under the Third Reich.

This case is concerned with the central political and economic administration of the Third Reich at Berlin. Krupp was based at Essen and Farben at Frankfurt-am-Main; hostages, partisans, and Einsatzgruppen call to mind the unhappy territories recently occupied by Germany; medical experiments are associated with the concentration camps scattered all over Europe. In this case we return to the center of things—Berlin is the symbolic common denominator of this case.

In fact, most of the acts which form the basis of this indictment occurred on or within a stone's throw of a particular street in Berlin called Wilhelmstrasse, the German counterpart of London's Whitehall and Downing Street and Paris' Quai d'Orsay. Again and again, during the last century, Wilhelmstrasse has been the focus of attention of the anxious capitals of the world. "What will Wilhelmstrasse say?" Europe asked in 1870, when Bismarck was brewing the Franco-Prussian war. "What will Wilhelmstrasse say?" the world asked in June 1914, when the successor to the Austrian throne was assassinated. "What will Wilhelmstrasse do?" everyone asked again in 1933 after the National Socialist regime came to power. Everyone realized that,

ruthless and determined as were Hitler, Goering, Hess and the other party leaders, much would depend on the attitude of the top officials entrenched in the semiclassic government buildings in the center of Berlin. The gentlemen of the Wilhelmstrasse could do much to obstruct or further Hitler's general plans.

After the establishment of the Third Reich in 1933, the gray eminences of Wilhelmstrasse entered upon a period of power such as was never accorded to them before. No longer did they have to consider parliamentary control because the German Reichstag was rendered impotent. No longer did they have to consider public opinion, because freedom of speech and assembly was trampled under foot and the press and radio became a chamber of mendacious echoes. But they were confronted with a historic decision—whether to support the evil designs of the adventurous Austrian paperhanger, or to endeavor to develop and enforce lawful, sane, and peaceful state policies. We will see what choice they made.

If, about 10 years ago, we had walked along Wilhelmstrasse, we would have found most of these men at work behind its august facades. At 76 Wilhelmstrasse was the German Foreign Office itself; here we would have found the eight defendants—including Bohle, von Weizsaecker, Keppler, and Steengracht von Moyland —who were Ribbentrop's immediate deputies in the field of foreign affairs. Next door to the Foreign Office were the Reich Chancellery and the Presidential Chancellery. In the Reich Chancellery, second only to Hitler himself, we would have found the defendant Lammers. A few doors away, at the Presidential Chancellery, the defendant Meissner was reaching the peak of a Wilhelmstrasse career which dates back to the earliest days of the Weimar Republic under President Ebert.

Elsewhere on Wilhelmstrasse, we would have found the headquarters of the SS and the defendants Berger and Schellenberg; the Food and Agriculture Ministry, headed by the defendant Darré; and the offices of the Four Year Plan, the Central Planning Board, and the Hermann Goering Works, in which the defendants Koerner, Pleiger, and Kehrl were leaders. Nearby, at the Wilhelmplatz, was the Reich Treasury, under the charge of Lutz Schwerin von Krosigk, and the Press and Propaganda Ministry, in which the defendant Dietrich was second only to Goebbels. A block or two away stood the headquarters of the Ministry of the Interior, in which the defendant Stuckart functioned as Wilhelm Frick's deputy. A 5-minute walk from Wilhelmstrasse was the great Reich Bank, of which the defendant Puhl was Vice President. And finally, near the Reich Bank, was the main office of the Dresdner Bank, the second largest commercial bank in

Germany, where the defendant Rasche was a principal member of the directorate. Thus, we have indicted in this case the chief civil executives of the Third Reich, other than those who were tried before the first International Military Tribunal. Here are the men who transferred the plans and ideologies of the Third Reich into action. Without their administration and implementation, and without the directives and orders which they prepared, no Hitler, no Goering, could have planned and waged aggressive wars; no Himmler could have wiped out 6,000,000 Jews and other victims of Nazi aggression and ideology. Without some of these men, the little trigger men and concentration camp executioners would never have received the murderous orders which many have recently expiated with their own lives.

The charges to be tried before this Tribunal, accordingly, like those heard by the IMT, involve the whole sweep of politics and economy in the Third Reich. Unlike the case before the IMT, the military leaders are to be tried separately in the twelfth and last case before these Tribunals. Again unlike the IMT case, the evidence has obliged us to include here a leading private financier —Karl Rasche of the Dresdner Bank. But in most respects, the charges in this case and in the IMT case are parallel, and the defendants are government and Party officials of the same type.

For the most part, too, these men are of comparable importance. We must except, of course, the five or six men who were the closest personal associates of Hitler. The latter include the protean Hermann Goering, next in line of succession to Hitler and the leading rank and office holder of all time; Rudolf Hess, next in succession after Goering and the executive head of the Nazi Party; Martin Bormann, who replaced Hess; Heinrich Himmler, the main spring of the police state; Joseph Goebbels; and probably, Joachim von Ribbentrop. Goering, Hess, and Ribbentrop sat in this dock before the first International Military Tribunal, Himmler and Goebbels were suicides at the end of the war, and Bormann is dead or a convicted fugitive. These men wielded the greatest political power.

Nearly as powerful, however, were other key government ministers and Party leaders—men such as Frick, Speer, and Rosenberg in the IMT case, and the defendants Lammers, Darré, Schwerin von Krosigk, and Dietrich in this case. It will assist the Tribunal in understanding the role and responsibility of each defendant, we believe, to begin this statement with a very brief sketch of the structure of the Third Reich government and the Nazi Party, in order to show how each defendant fits into the general scheme of things.

In theory, at least, Hitler derived his authority from two dis-

tinct sources. He was at once the "Fuehrer" of the NSDAP and the "Reich Chancellor" of the German State. As time went on, and after the Nazi Party became the only political party recognized by law, the line between State and Party grew more shadowy. Numerous high Party officials were also the heads of government ministries. Particularly in the field of police and security matters, State and Party were fused into a single organization by Himmler. But, in many other respects, the government and the Party remained separate organizations, and clarity will best be achieved by discussing them separately.

It must be remembered, of course, that we are discussing a government in which the legislature lost all power and importance. During 1933 the German Reichstag became nothing but an audience for Hitler's state speeches. It ceased to be even the formal source of most legislation. Although the Weimar Constitution, which safeguarded civil liberties and vested the law-making power in democratically elected legislature, was never repealed, it was largely superseded by a series of acts and decrees upon which the Nazi regime based its authority. A presidential decree of 28 February 1933 suspended the constitutional guarantees of freedom, and provided a pseudo-legal basis for the arrest of numerous anti-Nazi members of the Reichstag. Thereafter, on 23 March 1933, under the pressure of threats from Hitler that opposition would mean "war," the Reichstag passed the Enabling Act which was its own death warrant. Under this act, "Reich laws can be enacted by the Reich Cabinet as well as in accordance with the procedure established in the constitution." Furthermore, "the national laws enacted by the Reich Cabinet may deviate from the constitution."

As a result of the Enabling Act, legislative power passed into the hands of Hitler, Lammers, and their associates; acts passed by these men, although termed "laws," were actually decrees promulgated in the name of the Reich Cabinet and signed by Hitler and the responsible Reich Ministers. Subsequently, legislative power was vested in other Reich offices, such as the Reich Defense Council, the Plenipotentiary for the Four Year Plan, and other agencies.

Other laws were soon enacted to consolidate the dictatorship. The Law Securing the Unity of Party and State of 1 December 1933 declared the NSDAP inseparably united with the State. The Law of 1 August 1934, promulgated immediately after the death of President von Hindenburg, combined the powers of the Reich President and Reich Chancellor in the person of Hitler. The Law of 7 April 1933 integrated the "Laender" (states) with the Reich by providing for the appointment of Reich governors

whose duty it was to rule the Laender in the name of the Reich, according to the policies laid down centrally in Berlin. Thus, Germany became a totalitarian state with a highly centralized governmental system.

As Chancellor of the Reich, Hitler was immediately assisted by the Presidential Chancellery and the Reich Chancellery. The former was in charge of activities and arrangements arising out of the Reich Chancellor's status as sovereign head of the State. The defendant Meissner was chief of the Presidential Chancellery, with the title "State Minister" and the rank of a Reich Minister.

The Reich Chancellery was more directly concerned with the functioning of the Reich governmental machinery. It was, in effect, a central office for the coordination of the activities of all supreme Reich agencies. According to the German official handbook for 1936, it was the duty of the chief of the Reich Chancellery to inform the Fuehrer and Reich Chancellor on current questions of policy, and prepare directives to carry out his decisions. The defendant Lammers headed the Reich Chancellery, with the title and rank of Reich Minister.

The main body of work of the Reich government was handled by about 15 "ministries" which correspond in general to the "departments" in the United States Government. Each ministry was headed by a "Reich Minister." Two of the defendants in this case were Reich Ministers in charge of a ministry. The defendant Darré was Reich Minister for Food and Agriculture, and the defendant Schwerin von Krosigk was Reich Minister of Finance. These may be compared to the Department of the Treasury and the Department of Agriculture in the United States Government. The Foreign Office, with which eight of the defendants were associated, was comparable in structure and purpose to our Department of State and to the British Foreign Office. The Ministry of Propaganda and Public Enlightenment, of which the defendant Dietrich was the deputy in charge of all press matters, happily finds no close parallel in our form of government; it was, however, one of the most important ministries of the Third Reich and its activities are especially significant for purposes of this case.

Another formidably powerful ministry was that of the Interior, in which the defendant Stuckart was Himmler's principal deputy. The scope of this ministry was far broader than that of its namesake department in the American Government. The Reich Minister of the Interior had important legislative functions, and controlled the national, state, and local administrations and the civil service, as well as performing various important functions

in connection with medicine, health, and public welfare. During the war, it exercised important occupational functions. Still more important, the Ministry of the Interior controlled the German State Police system. A somewhat complicated situation arose when Heinrich Himmler, as head of the SS, brought the German police system increasingly under his control, but in 1943 Himmler succeeded Frick as Minister of the Interior, and even before this time there had been a more or less complete fusion of the State and SS police systems.

In the field of war economy, three important ministries of which we will hear much in this case were the Ministry of Economics, the Ministry of Armament and War Production, and the Ministry of Labor. Associated with these ministries were various special agencies, and quasi-governmental associations representing important industries such as coal and iron. The defendants Pleiger and Kehrl held high positions within this large governmental complex.

Only one other ministry need be specially mentioned in this outline. The Ministry for the Occupied Eastern Territories was established under Alfred Rosenberg after the outbreak of war to coordinate occupational policies in the occupied territories of the Soviet Union. The defendant Berger, as well as holding a high position in the SS, headed the Political Division of this Ministry. The six remaining ministries comprised the Ministry of Justice, the leaders of which have recently been tried before Military Tribunal III, Hermann Goering's Air Ministry, of which Field Marshal Erhard Milch was the Deputy Chief, and the Ministries of Transportation, Posts, Churches, and Science and Education.

As might be expected, the stresses and strains of preparation for war did not leave the structure of the German Government untouched. Some ministries disappeared, such as the Ministry for War, which was abolished when Hitler took personal command of the armed forces in 1938. Other ministries lost influence as compared to newly created special agencies which arose to meet emergency needs. In the early years of the Hitler regime, Hjalmar Schacht wielded great influence as "Plenipotentiary General for War Economy." In 1936 Goering replaced Schacht as the over-all coordinator of war production and war economy, and established the Office of the Four Year Plan, in which the defendant Koerner was Goering's immediate deputy. These special agencies, like the ministries, were directly responsible to Hitler, and were usually headed by cabinet ministers or officials of ministerial rank. Furthermore, there were other nondepartmental agencies, such as the Reich Bank, which were directly

under Hitler. Finally, as Commander in Chief, Hitler directed the Wehrmacht through the High Command of the Armed Forces (OKW).

The Reich Cabinet itself consisted of the heads of the 15 ministries (such as the defendants Darré and Schwerin von Krosigk), seven or eight other Reich Ministers "without portfolio" such as the defendant Lammers and the chiefs of the army and the navy, and eight or nine other high officials who were given the rank of Reich Minister or who were allowed to participate in cabinet meetings on matters pertaining to their field (Himmler, von Schirach, and the defendants Meissner, Dietrich, and Bohle fell within this category). It should be noted, however, that the Reich Cabinet became, after 1937, merely a designation for those 30-odd men who held positions of cabinet rank; despite its name, the Reich Cabinet ceased to function as a group. Hitler much preferred to deal with his immediate subordinates singly or in small groups, and this may account for the atrophying of the functions of the Reich Cabinet and other *ex officio* groups of high ranking officials such as the Reich Defense Council. This rested even greater responsibility and independence in the individual ministers in their respective fields.

As Fuehrer of the Nazi Party, Hitler was also assisted by two Chancelleries: the Chancellery of the Fuehrer, which was of relatively minor importance, and the Party Chancellery, which was of the greatest importance. In the line of succession in case of his death, Hitler placed Goering first and Hess second; but within the Party Hess, not Goering, was the real power—the political boss—through his capacity as Deputy to the Fuehrer and Chief of the Party Chancellery. After Hess' spectacular flight to England, Martin Bormann succeeded to Hess' functions and influence, though not to all of his titles. Below Hitler and the Party Chancellery, the central organization of the Nazi Party was divided into 16 principal offices, each headed by a "Reichsleiter." Many of the Reichsleiter were at the same time government ministers in a comparable sphere of activity. Thus, Rosenberg, von Schirach, Ley, Himmler, Goebbels, Frick, and other highly placed government ministers and officials were at the same time Reichsleiter—Rosenberg as the "Delegate for Ideological Training" for the NSDAP, Himmler as the "Delegate of Folkdom", and Goebbels as "Propaganda Leader." Two of the defendants in this case—Darré and Dietrich—were among the Reichsleiter, the former as head of the "Reich Office for Agriculture," and the latter as "Reich Press Chief." The defendant Keppler, at a comparable level in the Party hierarchy, was called the Special Economic Adviser to the Fuehrer.

In the regional organization of the Nazi Party, in accordance with the so-called "Fuehrer Prinzip," authority was vested in 42 Gauleiter, who directed Party affairs in the 42 "Gaue" or "districts" which constituted the largest geographical subdivisions of "Greater Germany" for Party purposes. Joseph Goebbels (for Berlin), Julius Streicher (for Franconia, of which the capital was Nuernberg), Fritz Sauckel and Baldur von Schirach were numbered among the Gauleiter. The defendant Bohle headed the so-called "43rd Gau," which was actually the Nazi Party Foreign Organization, "Auslandsorganisation," or "AO." For this same task, Bohle also had the rank and title of State Secretary in the Foreign Office. Below the Gauleiter, the regional organization was carried down to "Kreisleiter," and the leaders of still smaller units.

In addition to the Party proper, the NSDAP included several special Party formations, of which after 1934, the "Schutzstaffeln" or SS was by far the most important. The "Sturmabteilung" ("SA" or "storm troopers") became far less important after its leader, Ernst Roehm, was murdered on Hitler's orders in 1934. The Hitler Youth, headed first by von Schirach and later by Axmann, dwindled in significance after the outbreak of war. Other special Party formations in this same category included the National Socialist Motor Corps (NSKK) and the National Socialist Women's League.

We must, however, devote a few more words to Himmler's SS. As we have mentioned, the German Regular Police and the Secret State Police (Gestapo) were all subordinated to Himmler in his dual capacity as Reich Leader of the SS and Chief of the German Police and, later, in his third capacity as Minister of the Interior. As a Party organization, two of the main branches of the SS will be of particular importance in this proceeding. One is the Reich Security Main Office (RSHA), of which Ernst Kaltenbrunner was the head after the death of the notorious Reinhard Heydrich. The defendant Schellenberg headed one of the offices under Kaltenbrunner. The other is the so-called "Central Office" of the SS, which was in charge of recruiting for the SS and Waffen SS, and the administration and education of SS personnel. This office was headed by the defendant Berger.

Other main offices of the SS of which we will hear considerable mention are the Economic and Administrative Main Office (WVHA) of which the chief, Oswald Pohl, and his principal associates have recently been tried by Military Tribunal II, and the Race and Settlement Main Office, founded by the defendant Darré, of which the principal officials are now on trial before Military Tribunal I. We should also note that, in addition to all

the functions just mentioned, Himmler created a large SS army—the Waffen SS—which ultimately comprised well over half a million men and more than thirty divisions and which fought during the war with the regular divisions of the Wehrmacht.

From the very early days of the Hitler regime, Heinrich Himmler followed a policy of according high rank in the SS to leading government and Party officials and other prominent men whose support Himmler wished to recognize or to obtain. Thus, in addition to the defendants Berger and Schellenberg, who were full-time career officers in the SS—the former a lieutenant general and the latter a brigadier general—we find that twelve other defendants also held ranks in the SS ranging from lieutenant colonel to lieutenant general. These defendants were listed as members of the staff of the Reich Leader SS; they were entitled to wear the black SS uniform, and supported the SS with their personal prestige and in a variety of other ways.

As we will see, various of the defendants also had close political, social, and business relations with Himmler and the SS. The defendants Keppler, Rasche, and Kehrl were members of a group of business, government, and SS leaders which met regularly with Himmler and made large sums of money available to him. The defendants Schwerin von Krosigk, Rasche, and Puhl were closely connected with the financial end of SS activities, and particularly with the extension of credit to the industrial enterprises managed by Oswald Pohl's WVHA, which were operated largely with concentration camp labor.

The foregoing summary of the Reich government and the Nazi Party emphasizes the breadth and depth of the charge in this case. The defendants performed a wide variety of functions, and each occupied a position of great responsibility. But it can be seen that they fall into five general categories. Eight of the defendants—von Weizsaecker, Steengracht von Moyland, Keppler, Bohle, Woermann, Ritter, von Erdmannsdorff, and Veesenmayer were associated with the German Foreign Office, perhaps the most important of the several Reich Ministries represented in this proceeding. Six other defendants were in charge of, or second in command of other important ministries or offices; these six, who were perhaps the most politically powerful individual defendants in the dock, comprise Lammers, Stuckart, Darré, Meissner, Dietrich, and Schwerin von Krosigk. Two other defendants—Puhl and Rasche were leading bankers, and two more—Berger and Schellenberg were prominent in the SS. The remaining three defendants—Koerner, Pleiger, and Kehrl occupied leading positions in the field of government economics and war economy, and Keppler, too, was active in this field as

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well as in that of foreign affairs.

This breakdown is very general and will be subject to numerous exceptions in the course of the trial, but in general it can be said that foreign affairs, government administration, banking, war economy, and the SS are the five principal spheres of activity in the Third Reich with which this case will be concerned, and that each of the defendants fall into one of these categories, as indicated above. And it is clear, we believe, that the defendants were at or near the top of political and economic management in the Third Reich; they had great power in the Third Reich and they have much to answer for before this Tribunal.

We will pass now to the charges in the indictment which, if it please Your Honors, is not merely a set of allegations made by the prosecution. It is also a synopsis and digest of charges drawn up by these defendants against themselves, in the form of German official documents written by the defendants and their associates in the government.

Because of the number of defendants and wide subject matter of this proceeding, we will make no effort to detail the charges exhaustively but will attempt rather to sketch the main outlines and indicate the general nature of the evidence which we will produce. With respect to part of the case, it will be most convenient to proceed by subject matter, and to show the respective parts which the several defendants played in particular criminal enterprises described in the indictment. In other cases, it will be more appropriate to focus attention on an individual defendant or several defendants, in order to see the over-all pattern of his or their activities. We will begin with the charges set forth in count one of the indictment—crimes against peace—with particular emphasis on the role played by the Foreign Office defendants therein.

With Your Honor's permission, Dr. Kempner, the Deputy Chief of Counsel will continue reading the statement.

MR. KEMPNER: From its inception, the Third Reich dedicated itself to the creation of "Greater Germany" and the complete subjugation of surrounding territories. This goal, which contemplated the total destruction of the existing European order, was the motivating force behind the sacrifices exacted from the German people as the Reich mobilized for war. The domination of Europe, and later of the world, was the flaming creed of German nazism and militarism.

In the course of carrying out this creed of conquest, the defendants and other leaders of the Third Reich committed crimes under international law which are described as "crimes against peace" in Control Council Law No. 10, from which this Tribunal

draws its jurisdiction. More particularly, and in conformity with the statutory language, the defendants are charged in count one of the indictment with planning, preparing, initiating, and waging invasions and aggressive wars. In count two, they are charged with conspiracy to commit crimes against peace. Conspiracy, is thus charged as a separate and distinct offense, but no additional evidence is relied on in support of the charge of conspiracy in count two. In sketching the evidence which supports the indictment, therefore, counts one and two may be considered together.

It goes without saying that the invasions and aggressive wars waged by the Third Reich were planned and prepared over a long period of time. The task of gearing a great nation for war is a Herculean one. As Mr. Justice Jackson stated in his opening address before the International Military Tribunal: "Whatever else we may say of those who were the authors of this war, they did achieve a stupendous work in organization."[1] And, as the International Military Tribunal found in its judgment:

> "Immediately following Hitler's appointment as Chancellor, the Nazi government set about reorganizing the economic life of Germany, and in particular the armament industry. This was done on a vast scale and with extreme thoroughness."[2]

Preparation for war was and had to be the main occupation of the leaders of the Third Reich, in order to achieve their ends:

> "War was seen to be inevitable or, at the very least, highly probable, if these purposes were to be accomplished. The German people, therefore, with all their resources, were to be organized as a great political-military army, schooled to obey without question any policy decreed by the State."[3]

In this tremendous criminal undertaking of turning Germany into a war machine, several of the defendants—among others Lammers, Stuckart, Darré, Dietrich, Schwerin von Krosigk, Koerner, and Pleiger—played leading roles. The proof in support of this statement will be outlined subsequently, when we turn to the activities of the individual defendants. At this time, however, we are immediately concerned with a group of defendants whose criminal activities were not so much concerned with long term mobilization as with the political and diplomatic maneuvers and strategems which were utilized to initiate these wars and to produce conditions favorable to German victory. This group comprises six of the eight high officials of the Foreign Office named in the indictment—von Weizsaecker, Keppler, Woermann,

[1] Trial of the Major War Criminals, op. cit., volume II, page 104.
[2] Ibid, vol. I, p. 182.
[3] Ibid, p. 187.

Ritter, von Erdmannsdorff, and Veesenmayer. The defendant Steengracht von Moyland, although he succeeded Weizsaecker in 1943, was only a minor figure during the period with which we are here concerned, and is not charged under counts one and two of the indictment. The charges against the defendant Bohle —who also held the title of State Secretary in the Foreign Office— are unique and will be stated separately.

The six defendants with whom we are now concerned stand on the top level of the diplomatic roll of dishonor, for in paving the way for Nazi aggression they so perverted and corrupted diplomacy that German diplomats will labor under a handicap of suspicion and distrust for decades to come. Statecraft and diplomacy have long and honorable traditions, and the world will clearly understand that these defendants stand before this Tribunal not as diplomats, but as major war criminals charged with personal responsibility for the criminal acts they committed. We in nowise allege that the fruits of normal diplomacy are war and aggression, nor that statecraft is *per se* a criminal calling.

International custom and usage accord two main functions to diplomacy. First, the leaders of the government are to be kept fully informed of all events occurring outside the country which affect their national interests and are furnished by their experts on foreign affairs with the necessary advice and recommendations as to the course to be pursued. Second, diplomacy is deemed to be the normal channel through which official relationships are maintained between sovereign nations. Due to the importance and solemnity of their undertaking, diplomats are customarily granted diplomatic immunity, subject to well-defined limitations, by the nation they are accredited to. It is incumbent on diplomats to insure that their extraordinary privileges are not abused and that they conduct the foreign policy of their country through normal channels and in pursuance of lawful and peaceful aims. These German diplomats of aggression, however, wore the mantle of diplomacy to cloak nefarious policies which were solely directed toward the realization of the criminal aims of the Third Reich. Their conduct violated every cardinal principle of diplomacy; their shibboleths were treachery, terrorism and duplicity.

The Nazis permitted many career diplomats who had served the Weimar Republic to continue in office, provided they were racially and politically acceptable, for compelling reasons. The ranks of the NSDAP were unable to yield personnel sufficiently versed in foreign affairs and the intricacies of diplomacy to man the diplomatic posts. Further, the Nazi leaders believed they could best quiet suspicion of the aggressive aims of the new German foreign policy by the retention abroad of old, familiar

faces. During this period the Foreign Minister, von Neurath, was a willing but weak tool of the Nazis, and thus, on 4 February 1938, as the dark clouds of aggression gathered over Austria, Hitler appointed a former champagne salesman and fervent Nazi, von Ribbentrop, as the new Foreign Minister.

Von Ribbentrop was an outspoken advocate of a strong foreign policy that would employ all necessary means to achieve Hitler's ultimate objectives. However, he was not too familiar with the intricacies of the diplomatic service, and he relied heavily upon those career diplomats who would wholeheartedly throw themselves into the Nazi plans for world conquest. He chose von Weizsaecker to be his State Secretary, a position of importance second only to his own, and Woermann for the key post of chief of the Political Division. They occupied these leading positions until 1943, long after the last aggression had been launched, when both became ambassadors. This case will produce complete proof of their energetic and enthusiastic support of Hitler's warlike policies.

The two other career members of the German Foreign Office with whom we are now concerned are the defendants Ritter and von Erdmannsdorff. The latter was the German Minister to Hungary from 1937 to 1941, and thereafter became Deputy Chief of the Political Division immediately under Woermann. Karl Ritter was the German Ambassador to Brazil in 1937 and 1938; after von Ribbentrop took over, Ritter was brought back from Brazil to Wilhelmstrasse, with the title "Ambassador for Special Assignments." Soon he became the liaison officer between the Foreign Office and the High Command of the German Armed Forces—a position of the greatest importance.

The other two members of our group were not career diplomats. From time to time, Hitler without hesitation selected men from outside the circle of career service. Thus, in 1938, he appointed his personal economic adviser, Wilhelm Keppler, as special representative for Austrian affairs. Furthermore, Keppler was given the rank of "State Secretary for Special Assignments" in the Foreign Office. He brought with him as his assistant the defendant Edmund Veesenmayer, who remained at Wilhelmstrasse until 1944, and then was made German Minister and Plenipotentiary in Hungary. These defendants were no mere diplomats. In Berlin and in the field they forged the political weapons of aggression. The conquest of the countries attacked was foreshadowed by a series of treacherous moves carefully patterned upon the Hitlerian cornerstone of foreign policy: "Divide and Conquer." The double cross of nazism became a nightmarish reality, far too accurately symbolizing the

foreign policy of the Third Reich. Treaties, agreements, and assurances were deliberately negotiated in order to quiet the suspicion of the prospective victim and to cloak the fomentation of fifth column activities. The Foreign Office closely cooperated with the SS and the SD in laying the groundwork of aggression; terrorism, kidnapping, blackmail, and murder were frequently-employed weapons in the Nazi diplomatic arsenal. Partners in aggression were secured by diplomatic promises of "a pound of flesh" to be cut from the carcass of the victim. Prior to each aggression the defendants were feverishly engaged in diplomatic maneuvers designed to affect the political isolation of the country to be conquered. Pretexts for aggression were deliberately and spuriously fabricated and then blatantly proclaimed to the world to provide the "justification" that the niceties of nazism customarily required before launching their invasions.

During the years 1938 and 1939, two pairs of men played key roles in German foreign policy: von Weizsaecker and Woermann in Berlin, and Keppler and Veesenmayer abroad. The former couple directed and coordinated the diplomatic warfare against Austria, Czechoslovakia, and, finally, Poland, from their offices on Wilhelmstrasse. The latter pair sallied forth disguised as diplomatic emissaries, to carry the battle into the heart of the "enemy" country; we will find them in Vienna, Slovakia, and Danzig. Both pairs were constantly assisted by von Erdmannsdorff, from his strategic location in Hungary, which bordered upon all three intended victims of the Third Reich. The defendant Ritter's activities do not become of major importance in this case until after the fall of Czechoslovakia.

I now turn shortly to Austria.

For present purposes, we may begin the story of Austria with the agreement of 11 July 1936 between Germany and Austria, under which Hitler recognized the "full sovereignty of the federal state of Austria" and agreed to refrain from "direct or indirect influence" on the "inner political order in Austria (including the question of Austrian national socialism)." Austria, in turn, agreed to "conduct its policy in general and in particular towards Germany, always on the fundamental line that Austria regards herself as a German State." Both countries agreed to carry out a number of measures to improve the relations between them, and a "Mixed Commission" of Germans and Austrians was appointed to supervise the correct execution of the agreement. The defendant Keppler was appointed by Hitler as the Chief of this Commission. At the same time, he was secretly given "full authority" by Hitler with respect to all Nazi Party affairs in Austria.

Throughout late 1936 and 1937, Keppler, in his guise as an economic expert of the NSDAP, and Veesenmayer, his companion and collaborator, maintained constant contact with and directed the treasonable activities of the leaders of the outlawed Austrian Nazi Party, including Seyss-Inquart and Kaltenbrunner. Financial support was surreptitiously provided to the Austrian Nazis, and Keppler and Veesenmayer continually shuttled between Vienna and Berlin to keep the German Foreign Office, including von Weizsaecker, fully advised of all developments.

By early 1938 the situation in Austria was rapidly deteriorating. On 2 February 1938 Keppler wrote to Hitler from Vienna that Dr. Schuschnigg, the Austrian Chancellor, was sufficiently weakened to yield to German demands, and passed on the opinion of Seyss-Inquart that—and I am quoting Keppler (*NG–2387, Pros. Ex. 22*):

> "* * * at present, the atmosphere continued to be not unfavorable and that, contrary to his experiences up to date was a more lasting readiness to make concessions. In the negotiations which are to take place today, Dr. Seyss-Inquart will try to obtain further concessions and, in particular, to secure their realization."

On 12 February 1938 Germany ungloved the mailed fist. Schuschnigg, peremptorily summoned to Berchtesgaden, was violently harangued by Hitler, in the presence of Keppler, who had armed Hitler with a last minute report on the chaos created in Austria. Dazed by Hitler's threat to crush his small country by immediate military invasion, Schuschnigg helplessly consented to the Nazification of his government. The sands of Austrian independence were fast running out.

As the pillars of Austrian sovereignty shook, Keppler increased the tempo of Nazi demands. In a last desperate effort to stem the tide, Schuschnigg decided to hold a plebiscite on the question of Austrian independence. Keppler reported Schuschnigg's intention to Hitler on 9 March and Hitler immediately called Keppler to Berlin to report upon the entire situation. On 11 March, 2 days later, at Hitler's orders, Keppler returned to Vienna in order to bring about the Anschluss by threats of force. Upon his return, Keppler went directly to the President of Austria, Miklas, and presented him with an ultimatum. Seyss-Inquart was to be appointed Chancellor, and a new Austrian Government was to be formed in accordance with Seyss-Inquart's dictates. Keppler backed up his threats by informing Miklas that 200,000 German soldiers were being assembled at the Austrian border, ready for invasion.

But one more step remained before the curtain would be run

down and the death knell of Austria sounded. Nazi foreign policy demanded that a pretext for the intervention of the German army be fabricated so that the Third Reich's diplomats might sanctimoniously clothe their treachery with the appearance of legality. Keppler, after talking with Goering, showed Seyss-Inquart the text of a telegram which the latter, as leader of the provisional Austrian Government, was to send to Hitler, requesting that German troops be sent to Austria to put down disorder. Seyss-Inquart refused to do this, despite Keppler's repeated urging. But although this fictitious telegram was never sent, the German press was directed to publish it, as the excuse for the invasion, when the Wehrmacht rolled into Austria at daybreak on 12 March 1938. Thus was the first major aggression of the Third Reich consummated, and, as we will see, each subsequent diplomatic offensive was patterned along similar lines of dishonor.

I am now turning to Czechoslovakia.

At the very moment that Austria was forcibly embraced into the Reich, German diplomats were already looking eastward again, toward Czechoslovakia, a nation already marked for destruction on the German schedule of conquest. If perhaps it was Keppler who played the most important role in undermining Austrian resistance, this time it was Weizsaecker's turn to take the leading role in the new adventure. Weizsaecker was well trained and equipped for such a task; by virtue of his long experience as head of the Political Division of the German Foreign Office and of his close personal contacts with the highest ranking generals of the German Army, he was in an excellent position to devise the ways and means to carry out, in the diplomatic field, the plans of the Third Reich.

For their initial offense against Czechoslovakian independence, the Sudeten German party, under the leadership of Konrad Henlein, was to serve as Germany's "Trojan Horse." Ever since 1935 the German Foreign Office had been secretly financing the Sudeten German party. Now that the Austrian conquest had been satisfactorily handled, German support for Henlein was made known to the Czechoslovak Government in no uncertain terms. The assurances which Germany had given to Czechoslovakia at the time of the Anschluss of Austria gave way in a very few weeks to a different tone: as von Weizsaecker put it in a conversation with the Czechoslovakian Minister in Berlin on 2 April 1938 (*NG–3020, Pros. Ex. 61*), "If his country would take the necessary steps in favor of the Sudeten Germans, they would not have to worry about German-Czech relations."

Even this limited assurance was a hypocritical falsehood. At

this very time, von Weizsaecker and Woermann were increasing German subsidies to Henlein's Sudeten German party, and von Weizsaecker well knew that Germany's real objectives were not limited to bettering the condition of the Sudeten Germans, but were definitely territorial, and that Germany was prepared to use the threat of war, and, if necessary, war itself to gain her ends. In this very same month of April 1938, in a top secret message to German diplomatic representatives abroad, von Weizsaecker informed them that Germany was making great progress in her mobilization, and that all German diplomats should begin to organize their local affairs to meet a serious situation.

As the clouds gathered over Czechoslovakia, von Weizsaecker and Woermann concentrated German diplomatic efforts on the dissolution of the ties between Czechoslovakia and her allies, England and France, so that, like Austria, she would stand alone against the waves of Nazi might that threatened to engulf her. On 12 May 1938 von Weizsaecker recorded in a memorandum (*NG–3555, Pros. Ex. 63*) that Konrad Henlein had visited the German Foreign Office that day before going to England "where he is going to spend 2 days in order to visit Vansittart and a few other British personalities." In pursuance of the usual mendacious policy of the German Foreign Office, Henlein was to deny that he was acting on orders from Berlin. Finally, von Weizsaecker himself described the purpose of Henlein's visit to London as follows:

> "Henlein will try to create the impression in London that the Czechoslovakian State is gradually decomposing, in order to discourage those circles which still consider it practical to uphold the structure of this State."

Two months later, on 29 July 1938, von Weizsaecker was instructing the German Minister to Prague to torpedo the efforts of the English "Runciman Mission" to effect an amicable settlement of the Sudeten question, and I quote von Weizsaecker again (*NG–2626, Pros. Ex. 75*):

> "German cooperation with the Runciman Mission is out of the question. It goes without saying that Runciman must not be relieved of the anxiety that the Czechoslovakian question would take a dangerous turn if Runciman's proposals do not satisfy the Sudeten Germans."

The proof which we will introduce will make it clear that all efforts on behalf of the Czechs and the Runciman Mission to work out an amicable settlement of the Sudeten question were futile from the outset. They were futile because neither Germany nor the Sudeten Germans wanted an amicable solution. On 13 August 1938 a German agent reported to the Foreign Office that

the negotiations between the Czechs and the Sudeten Germans were breaking down because Konrad Henlein would not take part in person, and because Karl Hermann Frank, who was representing Henlein, was highly uncooperative and made such remarks as, "These negotiations did not matter at all. Things would turn out quite differently anyhow", and he expressed the opinion that a forceful solution of the Sudeten German problem was "the only possible solution." The defendant Woermann passed this information on to von Ribbentrop in a memorandum which makes clear that the Sudeten Germans were acting in all respects on instructions from the German Government, and that the negotiations for a peaceful settlement were a farce. As Woermann put it, and I quote the defendant Woermann (*NG–2826, Pros. Ex. 77*):

> "In the past, instructions have been issued to the negotiating delegation to appear to negotiate seriously. These instructions should be adhered to in negotiations with the Czechoslovakian Government as well as in interviews with Lord Runciman."

A few weeks later, von Weizsaecker and von Erdmannsdorff were engaged in discussions with the Hungarian Government pertaining to plans for Hungarian participation in the event of a war between Germany and Czechoslovakia. During the fateful month of September 1938 German diplomatic activities rose to a climax of deception and violence. About 10 September the Sudeten German party received instructions to "provoke" incidents which would furnish an excuse for German armed intervention; Weizsaecker noted on the margin of this report: "Provocations are to reach a climax on Tuesday." These incidents furnished Hitler with the pretext with which he desired to "justify" his violent and intemperate threats against Czechoslovakia, and on this basis, in the middle of September, Hitler took the position that concessions to the Sudeten Germans would no longer be sufficient and that the situation could only be solved by the cession of territory to Germany. On 29 September of this year, German foreign policy scored a most telling victory, and the Third Reich another bloodless conquest, by the signature of the Munich Agreement under which the Sudetenland was ceded to Germany and the military power of Czechoslovakia was destroyed.

As part of the Munich settlement, Germany gave its solemn word to guarantee, along with the other signatories, the territorial integrity of the remaining Czechoslovakia. Never for a moment was it Germany's intention to observe this guarantee; on the contrary, they lost no time in laying plans to destroy the remainder of Czechoslovakia and bring the territory completely under German domination. To bring this about, Germany once

more applied its tactics of "Divide and Conquer"; the first step in the diplomatic plan of campaign was to drive a wedge between the Czech provinces of Bohemia and Moravia and the eastern province of Slovakia. As a secondary and supporting maneuver, Germany strongly supported Hungarian territorial claims against Czechoslovakia, in order further to weaken the unhappy state; on 10 October 1938, in a cable to the various German embassies in Europe, von Weizsaecker set forth that it would be German policy to support Hungarian claims against Czechoslovakia.

The far-reaching strategy which underlay Germany's policy with respect to Slovakia is well illustrated in a memorandum prepared for von Ribbentrop by the defendant Woermann on 5 October 1938. In a portion of this memorandum entitled "The Slovak Problems" Woermann set forth that there were 4 theoretical possibilities (*NG–3056, Pros. Ex. 98*):

1. Independent Slovakia.
2. Autonomous Slovakia with close relations to Hungary.
3. Autonomous Slovakia leaning on Poland.
4. Autonomous Slovakia within Czech federation.

Commenting on these four possibilities, Woermann set forth that Germany had "no interest" in a union between Hungary and Slovakia, and even less in any connection between Slovakia and Poland: "A sphere of Polish economy enlarged by Slovakia, could put considerable difficulties in the war of German economic endeavors in the Southeast." Indeed, preservation of the existing relations between the Slovaks and the Czechs, through "an autonomous Slovakia leaning on Czechoslovakia", was deemed by Woermann "preferable to the Polish and Hungarian solutions as the lesser evil." However, Woermann strongly recommended against any of these three solutions as compared with the establishment of an independent Slovakia, and I quote him again: "as the solution most favorable to us":

> "An independent Slovakia would be a weak political organism," he said, "and hence would lend the best assistance to the German need for pushing forward and obtaining space in the East."

As early as December, von Weizsaecker was pointing out to the diplomatic representatives of Italy and Hungary that the Munich guarantees of a couple of months previous concerning Czechoslovakian territorial integrity were worthless, and he said:

> "Czechoslovakia is exclusively dependent on Germany. A guarantee from any other power is worthless * * *"

And he adds:

"Czechoslovakia's future is in Germany's hands, and a guarantee from any other power would be meaningless."

Now that Czechoslovakia was ready for the kill, Keppler and Veesenmayer stepped into the picture. Keppler had been released from his Austrian duties, and in December 1938 Hitler had asked him to familiarize himself with the Slovakian problem. Strong German support was given to the Slovakian separatist movement and early in March 1939 several Slovakian politicians were received by Goering in the presence of Keppler.

On 11 March 1939 Hitler sent Keppler (accompanied, as usual by his assistant, Veesenmayer) to Slovakia in order to intensify the pressure on the Slovakian leaders to declare their independence and put themselves under the protection of Germany. As Keppler put it in a letter written shortly thereafter to Himmler: "It was possible to save the confused situation and to bring Prime Minister Dr. Tiso to a conference with the Fuehrer in Berlin." The conference referred to took place in Berlin on 13 March 1939. Hitler delivered an ultimatum to Tiso, saying:*

"It was not a question of days, but of hours. If Slovakia wished to make herself independent, Hitler would support this endeavor and guarantee it. * * * If she hesitated and did not wish to dissolve the connection with Prague, he would leave the destiny of Slovakia to the mercy of events, for which he was no longer responsible."

Three days later, the Slovakian legislature declared the country independent. The next day, we are now on 15 March 1939, Hacha, President of the pitifully small remnant of the once proud, independent country of Czechoslovakia, was arrogantly summoned to Berlin and, in the presence of the defendants von Weizsaecker, Keppler, Meissner, and Dietrich, was ordered to sign an agreement for the incorporation of Bohemia and Moravia into the German Reich as a Protectorate. Hacha was told that German troops had received orders to march and that any resistance would be ruthlessly suppressed; Hermann Goering added the threat that he would destroy Prague from the air. Faced with these threats, Hacha had no alternative but to sign the agreement by which Czechoslovakian independence was finally extinguished. Keppler's part in this most shameful of all the Nazi conquests was saluted by Heinrich Himmler in the following words, and I am quoting Himmler (*NG–2937, Pros. Ex. 125*):

"I would like to express to you, Keppler, once more, in writing, how you have accomplished once again your very difficult task under very difficult conditions, so clearly and bravely for the Fuehrer. I do not have to reassure you that it will be

* Document 2802–PS, Prosecution Exhibit 120, reproduced in section VI–D, below.

a joy for me to allow SS men to work under your leadership in the future for these tasks."

Putting the final seal of hypocrisy on this brutal conquest, the defendant von Weizsaecker, on 15 March 1939, instructed all German diplomatic missions to declare that German action in Czechoslovakia took place, I quote Weizsaecker, "with the full agreement of the Czechoslovakian Government." Weizsaecker himself demonstrated how this attitude should be assumed three days later, when the French Ambassador attempted to deliver a note of protest on the Czechoslovakian affair. Weizsaecker himself recorded, and I am going to quote it (*NG–5392, Pros. Ex. 3540*):

"I put the note back into its envelope directly, and pushed it back to the Ambassador with the remark that I most decidedly refused to accept any kind of protest from him in the Czechoslovakian affair."

And he continued:

"* * * I did not want to enter into any discussion of this matter with the Ambassador. I told him, legally seen, there was an agreement existing between the Fuehrer and the Czechoslovakian President of State. The Czech President had come to Berlin according to his own desire and had immediately stated to the Reich Foreign Minister that he wanted to place the fate of his country in the hands of the Fuehrer. I could not imagine," von Weizsaecker continues, "that the French Government would be more Catholic than the Pope and mix into matters which rightly were settled between Berlin and Prague."

MR. KEMPNER: Mr. William Caming will continue with the permission of the Court.

MR. CAMING: With the final collapse of the Prague Government, Germany was at long last able to level her heavy guns at Poland. Relations between Germany and Poland were governed by the nonaggression pact of 1934. Under this agreement, the two governments stipulated that, I quote:

"Should any dispute arise between them, and should it not be possible to reach an agreement thereon by direct negotiations in each individual case, they will seek a settlement through other peaceful means on the basis of mutual agreement * * *. Under no circumstances, however, will they proceed to use force for the purpose of settling such disputes."

But to Hitler and the German Foreign Office, this agreement meant nothing. The theme for aggression was now to be the return of Danzig and the Polish Corridor to the "rightful owner," Greater Germany, and the "emancipation" of "oppressed" Ger-

man minorities. The strong Nazi element in Danzig was to serve as the opening wedge of the diplomatic campaign. During the conquest of Austria and Czechoslovakia, the German Foreign Office repeatedly assured Poland of Germany's peaceful intentions. But immediately after the occupation of Bohemia and Moravia, diplomatic negotiations with the Poles took an arrogant, belligerent, turn. On 30 March 1939, in discussing the Polish question with the Italian Envoy, von Weizsaecker contemptuously remarked (*NG–2017, Pros. Ex. 142*):

"The Poles are still hard of hearing at the present time, but they will undoubtedly learn to show themselves more pliable."

The policy of the German Foreign Office was to put the blame upon the Poles for the worsening of relations between the two countries and to portray the Reich as a peaceful nation being menaced and threatened by Poland. On 5 April 1939 Weizsaecker sent a cable to the German Ambassador in Warsaw, as follows, I quote (*NG–2016, Pros. Ex. 144*):

"It is probable that Lipski [Polish Ambassador to Germany] will be received here once more before Easter. On this occasion, the following points should be brought up with reference to the last discussion between Lipski and the Foreign Minister of the Reich:

"Our offer made to Poland was made but once. Apparently the Polish Government did not entirely comprehend the significance of this offer. We cannot help that. The future will show whether Poland was well advised. Lipski's counterproposal has, as you know, been rejected already as a basis for negotiations by the Foreign Minister of the Reich.

"No more explanations to Lipski."

Von Weizsaecker further said:

"It is requested not to go into any further discussions about the German offer and the Polish counterproposal. We must prevent Poland from throwing the ball back to us and later on making out that we had disregarded a Polish offer. Other important missions are likewise instructed not to enter any material discussion with regard to the Polish question, but rather to evade the issue clearly and give no indication as to German intentions in the future."

The following day von Weizsaecker accorded an interview to Lipski, who endeavored to explain that the recent agreement between Poland and England was of a purely defensive character and that Poland desired to abide by the German-Polish nonaggression pact of 1934. A memo by von Weizsaecker records the reply which he made to Lipski (*NG–2018, Pros. Ex. 145*):

"I have taken these remarks from Lipski with some laughter

and then told him approximately the following: * * * Nobody in Germany except the Fuehrer could have had the great conception of the year 1934 * * *. Instead of joyfully seizing this opportunity, and completing the work of 1934, we have suddenly heard the rattling of the saber in Poland. The offer by Hitler to the Poles was made once; the future will tell whether Poland has acted wisely in spurning it."

This statement well demonstrates the value of a career diplomat like von Weizsaecker to the cause of the Third Reich. He knew all the tricks of the diplomatic trade. Emboldened by success after success, and by the rapid increase of German armed might, von Weizsaecker's tactics grew increasingly brutal and ruthless. In April 1939 the late President Roosevelt sent an appeal to Hitler to preserve the peace of the world. The German Foreign Office endeavored to discredit Roosevelt's appeal by asking twenty-odd countries, not including Poland, whether these countries considered themselves threatened by Germany. Among other countries in the list were Yugoslavia, Greece, Denmark, Norway, Holland, Belgium, and Luxembourg, all of whom replied that they had no cause to feel threatened by Germany, and all of whom within a few months had cause to feel very differently. Among the countries to whom Germany addressed this question was the little Baltic country of Latvia. Upon hearing from the German Envoy to Latvia that the Latvian Foreign Minister was exhibiting some signs of caution in preparing his reply, von Weizsaecker telephoned to the German Minister in Riga, I quote (*NG–1429, Pros. Ex. 377*):

"To tell him that Latvian Foreign Minister Munters' reply to our inquiry in the matter of the Roosevelt telegram was unintelligible to us. While nearly all of the other governments questioned had responded already, and that, of course, in a negative sense, Mr. Munters was making out of that ridiculous piece of American propaganda a case on which he wished to consult his Government. If Munters did not answer our question with a downright 'no' we should have to add Latvia to those countries which are making themselves willful accomplices of Mr. Roosevelt."

The defendant Woermann could play the bully with equal skill. On 8 July 1939 he sent out a telegram to all German legations, instructing them concerning the language they should use in discussing the Polish question. One could hardly hope to find a clearer statement of the threat that Poland must give in or await annihilation, I quote (*NG–2026, Pros. Ex. 156*):

"We did not want to surrender the hope that Poland would yet come to her senses, for we were not looking for conflict

but for the solution of her problem. We could hardly imagine that an intelligent Pole would wish to expose the fate of Poland to the lightning-like and annihilating German stroke of the fist, which would then have to be expected * * *."

During July and August 1939 the international tension reached a fevered pitch. Cannon and small arms were smuggled into Danzig and border incidents were manufactured by the German authorities to serve as the match to explode the powder keg. Danzig custom officials were ordered to attack Polish border officials without provocation, and when the Polish Government ordered their guards to defend themselves, Weizsaecker seized upon this Polish "ultimatum" as the pretext for telling the Polish Ambassador that Poland was threatening the Free City of Danzig, and that the Polish "ultimatum" would lead to consequences, "the responsibility for which would fall exclusively on the Polish Government and for which the government of the Reich must disclaim all responsibility at this time."

PRESIDING JUDGE CHRISTIANSON: At this time the Tribunal will take a 15-minute recess.

MR. CAMING: Yes, Your Honor.

[A recess was taken.]

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE CHRISTIANSON: Mr. Caming, you may proceed.

MR. CAMING: Thank you, Your Honor. With the stage set and Nazi diplomacy finally embarking upon a policy of conquest by war, von Weizsaecker on 15 August made a last effort to dissuade England and France from fulfilling their alliances. He told the French Ambassador that (*NG–2031, Pros. Ex. 169*) "Poland, as a nation which is running amuck, is sealing her own doom," and in refusing arrogantly the British Ambassador's proposal for mediation, he said, "England should hardly be inclined or obligated to be led into disaster by her Polish friends who have gone mad." But for the first time, the glib tongues of these agents of Hitler failed to sway anyone.

All this time the German Wehrmacht had been preparing its military plans for the invasion and defeat of Poland, and by the latter part of August 1939 Hitler and his war lords were ready to strike. In order to create pretexts for the German attack, von Weizsaecker, with Keppler's approval, sent the defendant Veesenmayer secretly to Danzig. On 22 August 1939 Veesenmayer dispatched by cable to von Weizsaecker a five-point plan designed to provoke war with Poland. The plan under consideration was as follows (*NG–3615, Pros. Ex. 175*):

1. Long negotiations with Polish customs officials would fail. The blame would be put on the Poles.

2. Complete removal of all Polish customs officials and lifting of the customs border to East Prussia.

3. The Poles will take countermeasures in one way or another.

4. Then will follow the arrest of numerous Poles in the area and raiding of numerous Polish stored weapons. The discovery of these stored weapons has been arranged for.

5. If the Poles do not answer with sufficiently strong countermeasures, the Westerplatte will be attacked.

Two days later, Veesenmayer informed von Weizsaecker that he had learned that four points of this program had been approved by Hitler. As von Weizsaecker put it in a telegram to the German Embassy in Rome:

> "The situation has become acute in the meantime. A solution cannot be delayed any longer and will be had under any circumstances. If Poland does not give in, it will be eradicated. The Western Powers are in no position to aid Poland and attack Germany or Italy if they do not wish to risk their very existence."

On 25 August 1939 Veesenmayer was inquiring from the German Foreign Office whether, "on D-Day," the League of Nations High Commissioner in Danzig and the President of the Polish Harbor Commission could be "evacuated" from Danzig and their houses seized. On 1 September the German legions marched. Von Weizsaecker put his finishing touches on his masterpiece by instructing German diplomatic missions to declare that this was not a war, "but merely hostilities which were started by the Poles."

The invasion of Poland was but the first step in a long series of aggressions. German foreign policy dictated that country after country would fall under the heel of the conqueror. During 1940 the German legions marched in western Europe.

In May 1939 von Weizsaecker himself had negotiated the nonaggression treaty between Germany and Denmark, under which it was agreed that neither country should "resort to war or to any other use of force, one against the other." In August 1939, just before the attack on Poland, von Weizsaecker reassured the Danish Minister of Germany's intention to abide by the terms of the nonaggression pact. On 2 September 1939, after the outbreak of the war with Poland, Germany solemnly assured Norway of its respect for the integrity of the government and territory of the Norwegian State. Again on 6 October 1939 Hitler gave further assurances to Norway.

At least as early as February 1940, von Weizsaecker learned

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of Germany's military plans for the invasion and occupation of Denmark and Norway. Early in April 1940 long discussions were held between the leading Foreign Office officials, including von Weizsaecker, and the highest military leaders, including Field Marshal Keitel. Of course, as the date for the invasion approached, the Foreign Office busily denied rumors of the impending attack as "British propaganda," and even the Italians were kept completely in the dark. When the invasion of Norway and Denmark actually took place in April 1940, von Weizsaecker was prepared with the usual spurious justification for this long premeditated crime; he explained to the world that "German troops do not set foot on Norwegian soil as enemies" and that "German military operations aim at protecting against proposed occupation of Norwegian strong points by the Anglo-French forces." A few months later the defendant Ritter was given the mission of bringing about an economic union between Denmark and Germany. When the naturally reluctant Danes asked for time to consider the matter and submit a new proposal to Germany, Ritter replied that a new proposal would only be considered if it did not deviate too much from German plans. Thus did the Germans bring liberty to Scandinavia.

Thirty-one days later, on 10 May 1940, the Wehrmacht struck again, this time overrunning Belgium, Holland, Luxembourg, and France. Behind the usual diplomatic smoke screen of friendly assurances to Belgium, Holland, and Luxembourg, military preparations for the invasion and occupation of these countries had been substantially completed in October 1939, and the Foreign Office began to assemble alleged violations of neutrality that would serve as the pretext to mask the character of this invasion. Throughout the period from October 1939 to the spring of 1940, the Wehrmacht was merely awaiting the most favorable moment to launch the attack. Von Weizsaecker enjoyed the closest personal relations with General Halder, the Chief of the General Staff of the German Army, and was well informed concerning the military plans. His main task was to lull the suspicion of the Low Countries. Thus, on 15 January 1940, he was visited by the Belgian Ambassador, who expressed some concern about German plans. Von Weizsaecker assured the Ambassador that:

> "The Belgian Government was letting itself be scared by unfounded reports, and was letting itself be forced into unilateral activities. I regarded this as unwise. I couldn't see, I told him, any special reason for Belgian nervousness."

When the invasion finally took place, the "justification" issued by the German Foreign Office was even more than usually men-

dacious and hypocritical in its charges of neutrality violations by the Low Countries.

In the fall of 1940, after long consideration and after the failure of Goering's Luftwaffe in the Battle of Britain, Hitler decided not to risk an invasion of England and began preparations for the attack on the Soviet Union which was to transpire the following spring. Just as these preparations were getting under way, however, Mussolini most unwisely launched his war against Greece, which began on 28 October 1940. The Italian forces met with no success, and as early as November 1940, Hitler issued a directive that military plans for a German invasion of Greece should be prepared.

Germany's military plans in eastern Europe of necessity involved very complicated diplomatic preparations. After the destruction of Poland, Germany and Russia enjoyed a common frontier as far south as the Carpathians, but below the Carpathians, Slovakia, Hungary, and Rumania lay between the boundaries of Greater Germany and the Russian Ukraine and, so far as participation in the Greek campaign was concerned, the only overland route from Germany to Greece lay through Yugoslavia or through Rumania and Bulgaria. These circumstances made more necessary than ever careful coordination of activities between the Wehrmacht and the German Foreign Office, and the activities of the defendant Ritter, the liaison officer between the Foreign Office and the Wehrmacht, grew correspondingly more important.

Even before the opening of Italian hostilities against Greece, German troops began to arrive in Rumania in large numbers. As is revealed by top secret reports initialed by the defendant Ritter, Field Marshal Antonescu of Rumania had agreed to permit the concentration of German troops in order to launch a push through Bulgaria into Greece. Subsequently the agreement of King Boris of Bulgaria to the passage of German troops through that country to the Greek frontier was obtained. The importance of synchronizing diplomatic and military plans is well illustrated by a memorandum by the defendant Ritter dated 27 January 1941. Referring to Field Marshal Keitel's statement that the attack against Greece was scheduled for early April 1941, Ritter pointed out that the following actions in the field of foreign policy would first be necessary:

1. The renewal of the Bulgarian-Turkish nonaggression pact.
2. The signing and publication of Bulgaria's joining the Tri-Partite Pact.
3. Yugoslavia's signing the Tri-Partite Pact and nonaggression pact.

In the meantime, the defendant von Erdmannsdorff had reported that Hungary would permit the transportation of German troops across that country, and would restrict private railway traffic in order to facilitate the military movements.

Before actually launching the invasion of Greece, the adherence of Yugoslavia to the Tri-Partite Pact was obtained, but the very next day the Yugoslavian Ministers who had adhered to the Pact were removed from office by a *coup d'état* in Belgrade. As a result, German military plans in southeastern Europe were enlarged to include the conquest and occupation of Yugoslavia as well as of Greece. To ease the path of conquest for the German Army by stirring up the ancient hatreds between the Serbs and Croats, the defendant Veesenmayer was dispatched to Zagreb, in Croatia, a few days before the date set for the attack. Veesenmayer reported to the German Consulate at Zagreb, and the Consul was instructed to inform the Croat leaders "that Veesenmayer enjoys the full confidence of the Reich Foreign Minister." On 5 April 1941 the day before the actual invasion, Veesenmayer telegraphed to Ribbentrop the text of a proclamation of Croatia's secession from Yugoslavia. This telegram, which was distributed to the defendants Woermann, Bohle, and Ritter, stated, among other things (*NG–3126, Pros. Ex. 325*):

> "The Croat people wish to sever their ties with Belgrade, because they have strong political, cultural, and economic ties with the German people.
>
> "The Croat people firmly believe that they can count on the help of Germany in proclaiming their independence. The representatives of the newly created Croat State are asking the German Government for immediate protection and help."

On the following day, the Luftwaffe mercilessly bombed Belgrade which, as the German Foreign Office knew, had been declared an open city and was undefended by antiaircraft guns. At the same time, German troops smashed into Greece and Yugoslavia from Hungary, Bulgaria, and Rumania, whose participation in aggression as satellites of Germany had been secured by German diplomacy.

While the campaign in the Balkans was being planned and waged, German preparations for the major campaign in the East —the attack against the Soviet Union—were proceeding apace. These plans were well known to all of the Foreign Office defendants, each of whom played his part in coordinating political preparations with the military plans. Thus on 13 March 1941, Ritter reported that General Warlimont of the High Command of the Wehrmacht had pointed out that certain Russian commissions then operating in eastern Germany must be persuaded to

terminate their work quickly and be sent home. After 29 March no more Russians could be tolerated in that part of Germany, "since strong contingents of German troops were already assembling in the northern sector and troop concentrations would become even stronger after 20 March." Of course, the German Foreign Office was also kept busy denying all rumors of friction between Germany and the Soviet Union; even Germany's ally, the Japanese Government, was not informed until just before the launching of the attack. On 17 May 1941 von Weizsaecker told the Japanese Ambassador, Oshima, that German relationships were unchanged, although (*NG–4194, Pros. Ex. 355*): "We observe Russia with vigilance * * * We do not like everything the Russians have done during the last months. I do not speak of a condition of tension, however." At the same time, representatives of the Foreign Office were participating in the formulation of plans for the administration of occupied Soviet territory.

Just as Rumania had been used as a base for the attack on Greece, so was it now used as an important jumping off place for the Soviet campaign. On 23 May 1941 the defendant Ritter told the German Embassy in Bucharest to advise the Rumanian Government "that a new German Army of six to seven divisions will be formed in Rumania under the leadership of General Ritter von Schobert, who is to be introduced to Antonescu." This was the famous German 11th Army, later commanded by the notorious von Mannstein, which conquered the North coast of the Black Sea and sped all the way to Rostov before the winter of 1941–42.

On 15 June, a week before the attack, the defendant von Erdmannsdorff prepared the Hungarian Government for coming events; on von Ribbentrop's instructions he told the Hungarian Prime Minister (*NG–3082, Pros. Ex. 362*):

> "In view of the strong massing of Russian troops on the German east border the Fuehrer will probably be forced to clarify the German-Russian relationship by the beginning of July at the latest and in this to make certain demands. As the result of these negotiations cannot be foreseen, the German Government considers it necessary that Hungary also on its side should undertake steps for the securing of its border."

The German Foreign Office was especially well informed concerning Soviet intentions, and knew full well that nothing was further from the Russian mind than an attack against Germany. On 24 May 1941 (*NG–4195, Pros. Ex. 358*), the German Ambassador at Moscow had reported that Soviet foreign policy "is, above all, aimed at avoiding a conflict with Germany" and that this "is proved by the attitude of the Soviet Government during the last weeks, the tone of the Soviet press * * * and the fulfill-

ment of the economic treaties concluded with Germany." The defendants von Weizsaecker, Woermann, and Ritter all saw this report. The Foreign Office defendants, therefore, knew to be a fact what most men believed—that the German invasion of the Soviet Union on 22 June "without warning of any kind, and without the shadow of legal excuse, was plain aggression."*

Six months later, Germany's ally struck against the United States in the Far East. Hitler and his advisers had originally been opposed to the involvement of the United States in the war but, during 1941, that view had been revised to the extent of giving Japan every encouragement to attack England and the United States in the Far East. In April 1941 Hitler had given the Japanese full assurance of German support in such a war. In September 1941 the defendant von Weizsaecker had stimulated Japanese belligerency by telling the Japanese Ambassador that "I could not imagine that among the Japanese people, and in Japanese politics, the militaristic instincts should not finally gain the upper hand." And in November, von Weizsaecker urged the German Ambassador in Tokyo to encourage the Japanese by stressing that: "American tactics are designed, as they have been in the past two years, to deceive their opponents and hide their own weaknesses." When Japan attacked the United States at Pearl Harbor and Manila, the German Government, in pursuance of commitments previously given to the Japanese, entered the war at once on the side of Japan by declaring war against the United States.

The important part played by the other defendants in the invasions and aggressive wars which we have just described will be outlined presently. Before summarizing the charges against the several defendants *seriatim* however, we will outline the war crimes and crimes against humanity charged in counts three to eight of the indictment, and the general manner in which the five groups of defendants participated therein.

MR. CAMING: With Your Honor's permission, Mr. Lyon of the prosecution will proceed with the reading of the opening statement.

PRESIDING JUDGE CHRISTIANSON: Mr. Lyon.

MR. LYON: Counts three to eight of the indictment charge the defendants with criminal responsibility for the commission of war crimes and crimes against humanity as defined in paragraphs 1 (*b*) and (*c*), Article II of Control Council Law No. 10. In counts three to seven, the defendants are charged with participating in such crimes as principals, accessories, or in some other

* Trial of the Major War Criminals, *op. cit.*, vol. I, p. 215.

capacity specified in paragraph 2 of Article II of Law No. 10. Count eight charges fourteen of the defendants with responsibility for such crimes on the ground that they knew of or participated in their commission as members of groups, organizations, such as the SS, which were declared criminal by the International Military Tribunal.

Despite the staggering volume and horrible variety of crimes charged in these counts, we believe that the evidence will abundantly demonstrate the essential unity of the entire criminal program and enterprise which the indictment covers. The history of the Third Reich is a history of crime from its very inception. Consolidation of the dictatorship and preparation for aggressive war were accompanied by and accomplished by crimes. The outbreak of war and the spread of the conflagration served to intensify the criminality of the Third Reich's policies and practices. As the IMT put it:

> " * * * in this conception of 'total war,' the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties all alike are of no moment; * * *".*

The war crimes and crimes against humanity charged in the indictment fall into three broad categories. First, there are war crimes committed in the actual course of hostilities or against members of the armed forces of countries at war with Germany. These are set forth in count three of the indictment. Second, there are crimes committed, chiefly against civilians, in the course of and as part of the German occupation of countries overrun by the Wehrmacht. These include various crimes set forth in count five of the indictment, the charges of plunder and spoliation in count six, and the charges pertaining to slave labor in count seven. Many of the crimes in this second category constitute, at one and the same time, war crimes as defined in paragraph 1 (*b*) and crimes against humanity as defined in paragraph 1 (*c*) of Article II of Law No. 10. Third, there are crimes committed against civilian population in the course of persecution on political, racial, and religious grounds. Such crimes, when committed prior to the actual initiation of Germany's invasions and aggressive wars, are set forth in count four of the indictment; when committed thereafter, they are charged in count five. The crimes described in count four accordingly, are charged only as crimes against humanity; those charged in count five, for the most part,

* Ibid., vol. I, p. 227.

constitute at one and the same time war crimes and crimes against humanity.

Of course, these categories should not be regarded as watertight compartments. Political, racial, and religious persecution manifested itself abundantly in the German administration of the slave labor program and in the selection of property for spoliation in occupied countries, and Jews who were taken prisoner, particularly on the Eastern Front, fared far worse than other prisoners of war. We will sketch in very broad outline the types of crime charged in the indictment which fall into each category, before developing the criminal responsibility of the individual defendants under the entire indictment.

The crimes charged in count three involve eight of the defendants, and all the charges relate to the concept of the prisoner of war. For centuries, it has been part of the laws of war that a defenseless enemy who surrenders himself to the mercy of the victor shall not be killed or wounded, but shall be taken as a prisoner. This principle is embodied in Article 23 of the Hague Conventions. Equally revered is the rule that prisoners shall be humanely treated, embodied in Articles 4 to 20 of the Hague Regulations and in the Geneva Convention of 1929. The principal examples of criminal refusal to take prisoners are set forth in paragraph 28 (*a*) and (*b*) of the indictment. The prosecution will be the first to urge that the laws which require the taking of prisoners should not be arbitrarily applied without due regard to the circumstances. In the heat of battle, and where the safeguarding of prisoners presents a threat to the security of the capturing forces, an unrealistically severe standard of adherence must not be required. But the charges here are based upon general orders, deliberately drafted and widely circulated, to achieve the criminal purpose of killing defenseless troops under circumstances where, beyond any argument, the laws of war required that they be accorded the status of prisoners.

No defense, and no mitigating circumstances, can be adduced in connection with the proclamation encouraging the German civilian population to lynch Allied aviators who had been forced by military action to land in Germany, nor can any conceivable circumstances justify the infamous order of 18 October 1942 that all Allied Commandos, even if in full uniform and unarmed, should be "slaughtered to the last man" or murdered after a brief interrogation. In the case of the fliers, we will find the responsibility shared by defendants from the Foreign Office, the Reich Chancellery, the Ministry of Propaganda, and the SS. Execution of the "Commando Order" was customarily accomplished by Wehrmacht troops or SS-men, but here, too, we will find several

of the Foreign Office defendants "covering up" these murders and concealing them from inquiries made by Switzerland, as the protecting power.

Many prisoners of war taken by the German armed forces would have been just as well off, or perhaps even more fortunate, had they met the fate of the Commandos and been executed forthwith. The inhumanities to which prisoners of war in German hands were subjected often went far beyond the discomforts which any prisoner of war must expect in the hands of a country straining under the burden of violent and long-continued warfare. Russian prisoners, in particular, died in staggering quantities from disease and starvation, and little attempt was made to treat them as human beings. Particularly in the later stages of the war, when the defendant Berger was Chief of Prisoner of War Affairs, prisoners of war from the Eastern Front were shockingly treated and died in great numbers.

The last three subparagraphs [*c, d,* and *e*] of paragraph 28 of the indictment set forth certain other examples of crimes of this type. Particularly appalling was the now well-known murder of approximately 50 officers of the British Royal Air Force, who had escaped from confinement at Stalag Luft III and who were shot on recapture in flagrant violation of the laws of war. The defendants Steengracht von Moyland and Ritter participated in concealing this murderous affair from the protecting power, Switzerland. Equally disgraceful was the brutal and senseless murder of the French General Mesny, a prisoner of war in German custody, in which the defendant Berger was deeply involved and which, again, the defendants Steengracht von Moyland and Ritter helped to cover up and conceal.

The second main category of war crimes and crimes against humanity is crimes connected with the German occupation of conquered countries as charged in counts five, six, and seven.

Under this heading, we will describe the charges of plunder and spoliation in count six of the indictment, the slave labor charges in count seven, and the various charges in paragraphs 40 to 43, inclusive, of count five.

We will turn first to the charges of plunder and spoliation—count six.

The Hague Regulations provide, in Article 46, that private property "must be respected" and "cannot be confiscated" and in Article 52 that "requisitions in kind and services * * * shall be in proportion to the resources of the country." These and other provisions of international penal law form the basis of the allegations in count six, under which sixteen of the defendants are charged.

We believe that there is no need to describe in detail the overall character of German economic policy in the occupied territories. The subject was dealt with at length before the IMT, and is the basis of charges in several other cases before these Tribunals. As the IMT found:

> "* * * the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic 'plunder of public or private property', which was criminal under Article 6 (*b*) of the Charter."*

Some of the defendants charged in this count are primarily responsible as creators of the basic legal and administrative framework for these crimes, others are more closely connected with particular acts of plunder and spoliation, and some are involved in both ways. The defendants Lammers and Stuckart, for example, are found at the original root of responsibility inasmuch as they formulated and signed numerous decrees which authorized the execution of the criminal program in the occupied territories generally. The Foreign Office defendants lent general diplomatic support to the spoliation program, particularly in those countries where governments of one sort or another were permitted to exist under the German occupation, as for example, in France. The defendant Darré was particularly concerned with the establishment of foodstuff quotas for all the occupied areas and for the removal of vast quantities of food to Germany. The defendants Schwerin von Krosigk, Rasche, and Kehrl were especially active in the western occupied countries of France, Belgium, and Holland.

German exploitation of Czechoslovakia was particularly extensive and reprehensible, and much of it was done on behalf of the enormous German State-owned iron, steel, and coal combine known as the Hermann Goering Works, in which the defendants Pleiger and Koerner were leading figures. The defendants Kehrl and Rasche were very active in planning and executing the seizure of important Czech coal and steel properties on behalf of the Hermann Goering Works. They were also leaders in the expropriation of several leading Czech banks; these activities were usually carried out in the interests of the Dresdner Bank, of which Rasche was a leading director.

German exploitation of the occupied territories of the Soviet Union is described by the IMT as "premeditated and systematic looting." Here no pretense of legality was maintained by the German invader. German economic policy was openly based upon

* Ibid., vol. I, p. 239.

the assumption that the laws of war should not be observed. Many of the defendants participated in mapping out the general policies for the exploitation of Soviet economic resources; in their execution, the defendants Koerner, Pleiger, and Kehrl were especially active.

We turn now to slave labor—the charge contained in count seven—

The IMT found that the German occupation authorities succeeded "in forcing many of the inhabitants of the occupied territories to work for the German war effort, and in deporting at least 5,000,000 persons to Germany to serve German industry and agriculture."* The German slave labor program, it will be seen, was basically a part—and a most inhumane and criminal part—of the over-all German program for the economic exploitation of the occupied territories. Like the other parts of this program, the deportation of civilian populations to slave labor was in flagrant violation of international law, including specific provisions of the Hague Conventions. This criminal program, too, was the subject of extensive testimony before the IMT, and forms the basis of charges in other cases which have been tried or are in the process of trial before these Tribunals. The three major categories of involuntary labor involved in this program—deported civilian workers, prisoners of war, and concentration camp prisoners—are dealt with in the following findings of the IMT judgment and I quote:

> "In the early stages of the war, manpower in the occupied territories was under the control of various occupation authorities, and the procedure varied from country to country. In all the occupied territories compulsory labor service was promptly instituted. Inhabitants of the occupied countries were conscripted and compelled to work in local occupations, to assist the German war economy. In many cases they were forced to work on German fortifications and military installations. As local supplies of raw materials and local industrial capacity became inadequate to meet the German requirements, the system of deporting laborers to Germany was put into force. By the middle of April 1940 compulsory deportation of laborers to Germany had been ordered in the Government General; and a similar procedure was followed in other eastern territories as they were occupied.
>
> * * * * * * *
>
> "* * * the evidence before the Tribunal establishes the fact that the conscription of labor was accomplished in many cases

* Ibid., vol. I, p. 243.

by drastic and violent methods. * * * The resources and needs of the occupied countries were completely disregarded in carrying out this policy.

"* * * The concentration camps were also used to increase the supply of labor. Concentration camp commanders were ordered to work their prisoners to the limits of their physical power. * * * Allied prisoners of war were also regarded as a possible source of labor. * * * Many of the prisoners of war were assigned to work directly related to military operations, in violation of Article 31 of the Geneva Convention. They were put to work in munition factories and even made to load bombers, to carry ammunition and to dig trenches, often under the most hazardous conditions."*

In the field of slave labor, we again find the defendants Lammers and Stuckart as the draftsmen and signatories of many of the basic decrees and administrative directives which underlay the program as a whole. And once again, the Foreign Office defendants participated chiefly by bringing pressure to bear upon the governments of occupied and satellite countries to send workers to Germany, and by taking other "helpful" action in the political and diplomatic field. The defendant Berger participated extensively in the actual procurement of slave labor in the eastern territories.

The defendant Darré was one of the originators of this entire program, which brought incalculable misery to so many millions of people. Shortly after the occupation of Poland, he suggested and ultimately brought about the forcible "recruitment" of Polish agricultural workers to be used on German farms. The defendant Koerner became closely connected with the allocation of industrial manpower as Hermann Goering's deputy in the Four Year Plan, and subsequently, from 1942 to 1945, he became a member of the Central Planning Board, which determined the labor requirements of the various sections of the German economy. The defendant Kehrl, as high official under both the Central Planning Board and the Reich Minister of Armament and War Production, is similarly and deeply involved. A quasi-governmental organization which had important functions with respect to the procurement and allocation of slave labor in the coal mining industry was the Reich Association Coal (commonly known as the RVK) of which the defendant Pleiger was the chairman and dominant figure. One of the largest industrial users of slave labor was the Hermann Goering Works, in which the defendants Pleiger and Koerner were both leading figures. The criminal responsibility

* Ibid., vol. I, pp. 243–245.

of these four—Darré, Koerner, Pleiger, and Kehrl—under count seven, is, therefore, particularly extensive.

Equally grave within a narrower compass are the slave labor charges against Puhl and Rasche. Heinrich Himmler conceived the delectable idea of augmenting the income of the SS by establishing so-called "SS industries," the labor for which should be furnished largely by the inmates of Himmler's own concentration camps. These industries were administered by a division of the Economic and Administrative Main Office of the SS (WVHA) headed by Oswald Pohl; the crimes committed by the exploitation of concentration camp inmates in these industries were the basis of a large part of the judgment of Military Tribunal II in Case 4.* The defendants Puhl and Rasche were active in financing these enterprises, through the instrumentality of the Reich Bank, of which Puhl was Vice President, and through Rasche's Dresdner Bank.

Other crimes closely connected with the German occupation of conquered territories are described in paragraphs 40 to 43, inclusive, in count five of the indictment. The spread of German dominion was accompanied by a systematic program to evacuate non-German peoples from their homes and land in certain areas, and to "resettle" these areas with so-called "ethnic" Germans. Particularly in Poland, "racial Germans" were resettled in the conquered territory at the expense of "non-Germans" whose homesteads and lands were confiscated. At the same time individuals of foreign nationality whose general characteristics fulfilled the requirements of Nazi racial superstition, were selected for forcible Germanization. As usual, the defendants Lammers and Stuckart were involved in laying the legal and administrative foundations for the "Germanization" program, which was executed chiefly by the Race and Resettlement Main Office (RuSHA) of the SS, of which the defendant Darré was the founder. The leading officials of this organization are now on trial before Military Tribunal I. An analagous criminal program was the forced recruitment into the Waffen SS of prisoners of war and men of military age from the various countries overrun by the Wehrmacht. Special SS divisions were formed by forceful means from the male population of such territories as Yugoslavia, Albania, the Scandinavian countries, and the Baltic countries. This enforced recruitment violated those provisions of the Hague Regulations which forbid compelling the inhabitants of an occupied country to swear allegiance to the hostile power, or to take part in military operations against their own country, and were conducted under the general direction of the defendant Berger.

* United States *vs.* Oswald Pohl, et al., case 4, volume V, this series.

The other two criminal programs to be noted here were connected with the "pacification" of the occupied territories. To the normal resistance which the German forces encountered from the inhabitants of the countries which the Wehrmacht invaded and despoiled, the Germans had no answer more intelligent than blind and stupid terror. Attacks against German personnel or German property were met by the slaughter of innocent members of the civilian population at ratios as high as 100 to 1. As might be expected, these brutal and murderous measures aroused a storm of protest from the protecting powers, from neutral countries, and a variety of other sources; it was the shameful task of von Weizsaecker, Steengracht von Moyland, and the other Foreign Office defendants to deny and camouflage these wholesale murders.

In addition to the slaughter of hostages, the Third Reich used perverted judicial mechanisms to spread the terror. Persons suspected of enmity toward the Reich or the German forces were taken into custody and spirited away to Germany for secret trial and punishment, without notification to their friends or relatives. These judicial measures of extermination were carried out under the notorious "Night and Fog" decree (Nacht und Nebel Erlass), which was condemned as criminal by the IMT, and which was the subject of an important part of the judgment of Tribunal III in Case 3.* Tribunal III held that this decree "brought about a systematic rule of violence, brutality, outrage and terror against the civilian populations of territories" occupied by the Wehrmacht. The defendants Lammers and Meissner were deeply involved in the administration of the Night and Fog decree.

A third main category—atrocities and offenses committed on political, racial or religious grounds—charged in counts four and five.

The crimes within this category, if committed against German nationals prior to the outbreak of the war, are charged in count four of the indictment as crimes against humanity as defined in paragraph 1(*c*) of Article II of [Control Council] Law No. 10. Similar atrocities committed after the outbreak of war are charged in paragraphs 44 to 50 inclusive, of count five of the indictment; these crimes committed during the course of the war in all cases constituted crimes against humanity and in many cases constituted both war crimes and crimes against humanity. The prosecution is aware that the charges in count four involve certain legal questions which we will touch on at the close of this statement.

That the dictatorship of the Third Reich was created and con-

* United States *vs.* Altstoetter, et al., case 3, volume III, this series.

solidated by the ruthless suppression of civil liberties and the extinction of political, cultural, and religious opposition of all kinds is now common knowledge. Apart from the Jewish question, the atrocities connected with the establishment of the Third Reich dictatorship are described in paragraphs 31 to 33 inclusive, of count four of the indictment. In these paragraphs, the murder or imprisonment of political opponents of the Nazi regime, the suppression of the trade unions, and the persecution of the Christian church leaders are described. The defendants who are primarily responsible for these atrocities are the old-time Nazi executives such as Lammers, Stuckart, Meissner, Dietrich, and Schwerin von Krosigk.

But the evil spark of nazism was anti-semitism, and paragraphs 34 and 35 are concerned with the prewar atrocities against the Jews. The defendants Dietrich and Darré can be compared only with Goebbels and Streicher as the most vociferous and unrestrained protagonists of anti-Semitic violence. The early riots and boycotts in 1933 and 1934 culminated in the atrocious Nuernberg Laws of 15 September 1935, which the defendant Stuckart helped to draft and which were voted through the Reichstag with the help of Darré, Keppler, and Bohle.

The existence of a Jew in Germany became ever more intolerable through 1936 and 1937, and another climax was reached in November 1938, when the assassination of a minor German diplomat in Paris was made the pretext for launching a nationwide pogrom. The defendant Dietrich was the leader in organizing so-called "spontaneous action of the German masses" against the Jews, and the defendant von Weizsaecker raised his voice in the hideous chorus. Immediately after this orgy of arson and murder, Hermann Goering called a conference of high government officials, in which the defendants Schwerin von Krosigk, Stuckart, and Woermann participated, to devise ways and means of squeezing out all the property and savings of the German Jewish population. Almost all of the defendants participated, in one way or another, in making life in Germany dangerous and intolerable for all Jews.

Their efforts led to the "Final Solution of the Jewish Question"—charged in count five.

With the outbreak of war, the Nazis threw to the four winds all restraint in dealing with Jews. As Austria, Czechoslovakia, and Poland were overrun, the Nuernberg Laws and other anti-Semitic German legislation were applied to the conquered territories. But it was in the spring of 1941, when the invasion and occupation of the Soviet Union was being planned, that murderous persecution gave way to a systematic and deliberate program to exterminate all European Jews.

In preparation for the invasion of the Soviet Union, the High Command of the German Army and Heinrich Himmler's SS made one of the most murderous covenants of all time. It was drafted by the defendant Schellenberg in May 1941. On its face, it provided that special units, called "Einsatzgruppen", of Himmler's SS should accompany the German armed forces into the Soviet Union and perform "special missions" as directed by Himmler to safeguard the rear areas behind the fighting front. In fact, as was well known to the leaders of the Wehrmacht and the SS alike, the true purpose of these units was to seek out and ruthlessly exterminate all Jews and political functionaries of the Soviet regime. This program was actually carried out and resulted in murder of a million or more Jews and other so-called "undesirables"; progress reports on these killings were brought to the attention of the German Foreign Office. Twenty-odd members of these gangs are now on trial before Military Tribunal II.*

Encouraged by the success of the Einsatzgruppen in Russia, the leaders of the Third Reich proceeded to evolve a systematic program for the extermination of all European Jews, the basic plans for which were laid at a series of interdepartmental conferences on the "Final Solution of the Jewish Question" which took place during 1942. The defendant Stuckart and representatives of the defendants Lammers and von Weizsaecker took part in these conferences, which led to a program for the evacuation of eleven million European Jews to camps in eastern Europe, where they were to be worked to death or slaughtered by methods of mass execution. The extermination of European Jewry was perhaps the most monstrous and certainly the most successful of all the crimes of the Third Reich, and most of the defendants in this case are directly involved in its execution. All of the Foreign Office defendants participated in the deportation of Jews from the puppet and satellite countries dominated by Germany. Within Germany itself, the program was symbolized and consummated by the decree of 1 July 1943, drafted by the defendant Stuckart and others and signed by the defendant Schwerin von Krosigk, which deprived all Jews in Germany of judicial process and authorized the police to punish "all criminal acts committed by Jews", and provided for the ultimate confiscation of all Jewish property.

The "Final Solution of the Jewish Question" had gruesome and grotesque byproducts; the assortment of watches, spectacles, and jewelry seized from murdered Jews, and the rings and gold teeth

* U.S.A. *vs.* Otto Ohlendorf, *et al*, Case 9, vol. IV, this series.

pulled from the fingers and dug out of the skulls of Jewish corpses. The defendant Puhl supervised the classification and deposit of these valuables in the Reich Bank, and the proceeds from their disposal were credited to the Reich Treasury under the defendant Schwerin von Krosigk.

A fourth general category of activities of the defendants to which we have referred is: Support of the membership in criminal organizations—charged in counts four, five, seven, and eight.

Under this heading we are, of course, speaking of a form of participation in crime rather than of a distinct type of crime. The organizations with which various of the defendants were connected include, preeminently, the SS, and the so-called "Leadership Corps" of the Nazi Party, both of which were declared criminal organizations by the judgment of the IMT. Fourteen of the defendants are charged with membership in criminal organizations; all fourteen were high-ranking officers in the SS, one of the fourteen was also a member of the "Sicherheitsdienst", and four were members of the Leadership Corps in the Nazi Party. As to all fourteen the proof will abundantly show that they both knew of and participated in the crimes on the basis of which these organizations were declared to be criminal.

As to several of the defendants, however, the charge of participation in the criminal activities of the SS is not limited to membership therein. We will hear frequent mention in this proceeding of a group called the "Circle of Friends" of Himmler, of which the defendant Keppler was a founder and in which the defendants Rasche and Kehrl were active. The so-called "Himmler Circle" was composed of about thirty of the foremost German business and financial leaders, among whom the defendant Rasche was numbered, several high-ranking government officials, including the defendants Keppler and Kehrl, and a number of the most notorious leaders of the SS, including Himmler himself, his adjutant Karl Wolff, Oswald Pohl, Otto Ohlendorf, and Wolfram Sievers. The business and financial leaders who belonged to the Himmler Circle made large regular annual contributions to Himmler to aid in financing the activities of the SS; the defendant Rasche, for example, procured contributions by the Dresdner Bank of some 50,000 marks per year, and the Dresdner Bank itself served as the depository for these funds. The prominent German industrialist Friedrich Flick, and his associate Otto Steinbrinck, were recently convicted of criminal responsibility for SS activities by virtue of their membership in the Himmler Circle.

The SS, of course, was not solely dependent for its funds upon the voluntary contributions of the Himmler Circle. The defend-

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ant Schwerin von Krosigk, as Reich Minister for Finance, furnished fiscal support for the SS. The Dresdner Bank, by the procurement of the defendant Rasche, furnished credit to the SS for its general activities in Germany and in the occupied territories. The defendants Puhl and Rasche procured credit from the Reich Bank and the Dresdner Bank respectively, to finance the SS industries which were operated with concentration camp labor. And the Reich Bank, as we have seen, acted as the depository for valuables confiscated from Jews murdered by the SS.

We have now completed this statement of the crimes charged by the indictment, and will turn to a summary of the evidence concerning the responsibility of each defendant or group of defendants for the crimes so charged.

PRESIDING JUDGE CHRISTIANSON: I believe, Mr. Lyon, this would be a suitable time for our noon recess.

MR. LYON: Very well, Your Honor.

PRESIDING JUDGE CHRISTIANSON: The Tribunal will recess to 1:30.

[A recess was taken until 1330 hours, 6 January 1948]

THE MARSHAL: The Tribunal is again in session.

PRESIDING JUDGE CHRISTIANSON: Mr. Marshal, are all the defendants present in the courtroom?

THE MARSHAL: With the exception of defendant Meissner, sir.

PRESIDING JUDGE CHRISTIANSON: Mr. Lyon, you may proceed.

MR. LYON: The prosecution will summarize the evidence against the defendants, individually or in homogeneous groups, according to the five principal categories which we noted at the outset—foreign affairs, government administration, banking, war economy, and the SS. It will be convenient to begin with the defendants who played important parts in the German war economy, and who, except Kehrl, are charged with responsibility under counts one and two for planning and preparing for aggressive warfare.

Following the outline of evidence in the war economy field, which will particularly involve the defendants Koerner, Pleiger, Keppler, and Kehrl, we will, in order, take up the two defendants (Rasche and Puhl) from the banking field, then the Reich Ministers and other high officials in the field of government administration, then the two SS Generals. Finally, we will return to the Foreign Office defendants, whose criminal participation in the commission of crimes against peace has already been described, and outline their comparable responsibility for war crimes and crimes against humanity.

Now, if the Tribunal please, Mr. Gantt will continue with the reading of the statement.

MR. GANTT: The joint appearance in this dock of Koerner, Keppler, Kehrl, and Pleiger is a natural development growing out of their close collaboration throughout the Third Reich in every important phase of the crimes which may be termed economic or industrial in character—in economic preparation for aggression, in economic ruination of occupied countries, and in enslavement of their citizens in German industry.

In virtually every important government agency playing a major part in these crimes, we will find one or more, and frequently all four, of these men in leading positions. In the Four Year Plan, the top agency for economic preparation for war, Koerner was second only to Goering and the other three also had important positions. In fact, they had a good deal to do with the very creation of the Four Year Plan in 1936 and had already worked together for several years under Keppler's leadership in the so-called Buero Keppler, which had laid the groundwork for the Four Year Plan. They were also instrumental in the creation and management of the huge government corporate colossus, the Hermann Goering Works, which was organized in 1937 as a major project of the Four Year Plan and grew in a few short years to become the largest mining and smelting combine, the largest steel and armament producer, the largest inland shipping company and in general by far the largest industrial combination in Europe. In the Central Planning Board, from 1942 the top wartime agency under the Four Year Plan for economic affairs including slave labor, Koerner was a member of the four-man board, along with Milch, Speer, and Funk, who have already been convicted for their roles therein; and the record of the Board's meetings also reveals the prominent parts played by Pleiger and Kehrl.

In the numerous agencies active in plundering and ruthlessly exploiting occupied countries we will find the same story—these four defendants, like the Wehrmacht, fanned out in all directions. In the western occupied territories the basic plan for spoliation of the textile industry was the so-called "Kehrl Plan." In Czechoslovakia Kehrl and the defendant Rasche of the Dresdner Bank were special agents of the German Government appointed to supervise German absorption of Czech heavy industry, much of it by the Hermann Goering Works. In the eastern territories, the supreme agency for directing the program of plunder was the Economic Leadership Staff East, under the direction of Koerner as Goering's representative. Under the general program for spoliation in these eastern territories, numerous specialized organizations were established. These included—BHO, headed by Koerner and Pleiger, for the mining and smelting

industries; the Ostfaser Company, headed by Kehrl for the textile industry and its raw materials; the Kontinentale Oel Company, of which Keppler was a leading official, for oil exploitation; and the DUT [Deutsche Umsiedlungs-Treuhandgesellschaft], in form a company of which Keppler and Kehrl were corporate officials, but actually an arm of the SS for handling property seized from hapless citizens of eastern countries who were supposed, under the Nazi plans, to give up their land and possessions to German settlers. Finally the Hermann Goering Works, of which Koerner and Pleiger were particularly important officials, reached its enormous size in large part by absorbing industries in occupied countries on a wholesale basis.

The prominence of these four defendants in all these criminal activities properly reflects their position in the regime of the Third Reich and in the part thereof which was Nazi in the strictest sense. All four were highly influential figures in the Party. Three of them were SS officers, Keppler and Koerner holding the rank of lieutenant general and Kehrl that of brigadier general. Their relations to Hitler, Goering, and Himmler were very close both before and after 1933. We have already seen that Keppler in 1932 formed a group of industrialists and financiers to advise Hitler, a group which came to be known as the Keppler Circle and later as the Circle of Friends of Himmler, and of which Kehrl and Rasche were members. Keppler's activity in 1932 in promoting Hitler's rise to power was as useful and ubiquitous as it was later to become in the field of both foreign affairs and economics. In November 1932 Keppler was instrumental along with Kurt von Schroeder, the Cologne banker, and the defendant Meissner, in securing signatures of numerous leading industrialists to a petition to Hindenburg to appoint Hitler Chancellor. It was Keppler and von Schroeder again who, with Himmler and Hess, arranged the historic meeting of 4 January 1933 between von Papen and Hitler, which led directly to the alliance between Hitler and von Papen that was the necessary foundation for the appointment of Hitler as Chancellor shortly thereafter.

Keppler deserves to be better known to the world than he is for his part in laying the basic economic foundation for Hitler's invasions and wars of aggression. Keppler learned from World War I that Germany needed to be self-sufficient in certain critical materials if she was to have any hope of success in another major conflict. He succeeded in 1934 in having Hitler create and place him in charge of a special agency for the development of german natural and synthetic raw materials. Here the basis was laid for the successful development of programs for greatly ex-

panding the production of synthetic textiles, synthetic rubber, diesel oil, gasoline lubricants and fats.

Keppler's agency was generally known as Buero Keppler, and in the work of this office, Keppler's closest collaborators included the defendants Kehrl, Koerner, and Pleiger. In early 1936 the activity of the Buero Keppler was extended, and Keppler and his staff were included in an Advisory Committee on Questions of Raw Material, a group which was presided over by Goering and Schacht, and which included the defendants Koerner, Keppler, Pleiger, Kehrl, and Schwerin von Krosigk, General Keitel and other representatives of the army and a number of industrialists, including representatives of Krupp and Farben. The general tone of the meetings of this committee is aptly summarized in a statement made by Goering at a meeting of the Ministerial Council on 27 May 1936, attended by the defendant Schwerin von Krosigk, that, "All measures are to be considered from the standpoint of an assured waging of war."

In August 1936 Hitler founded the Four Year Plan under Goering as Plenipotentiary, to achieve, as he said, the following tasks:

1. The German Army must be ready for combat within 4 years,
2. The German economy must be mobilized for war within 4 years.

The IMT in its judgment noted of Minister of Economics Funk:

> "On 14 October 1939, after the war had begun, he made a speech in which he stated that the economic and financial departments of Germany working under the Four Year Plan had been engaged in the secret economic preparation for war for over a year."*

Numerous other descriptions of the nature of the Four Year Plan, as well as a mass of proof of its actual activities, confirm the accuracy of Funk's statement. Thus, in November 1936, General Thomas, head of the Military Economic Staff of the Wehrmacht, stated that:

> "* * * the Four Year Plan is military economy at its purest."

A month later, Goering stated to a group of industrialists:

> "We are already on the threshold of mobilization and we are at war, only the guns are not yet being fired."

One of the major projects of the Four Year Plan in the field of heavy industry was the establishment of the Hermann Goering Works in 1937. The initial purpose of the Hermann Goering Works was the exploitation of deposits of German iron ore which were of such low grade that private industry had not found it profitable to develop them, but had relied upon the importation

* Trial of the Major War Criminals, *op. cit.*, vol. I, p. 305.

of iron ore from foreign countries. It is quite obvious that iron was, as Goering stated before the IMT, a basic prerequisite for the reestablishment of the armament industry.*

These defendants could not fail to know the purpose of the iron ore program, as well as of the Four Year Plan of which it was a part, as one of preparation for aggression. On 17 March 1937, Koerner, Pleiger, and Keppler attended a meeting of the Working Committee of the Four Year Plan at which Goering stated (*NI–090, Pros. Ex. 966*):

> "In the name of the Fuehrer who has specially charged me to declare that he will not deviate from this course, I declare as my standpoint, that it must be possible to mine as much ores from the German soil as are necessary for the actual needs of war * * *.
>
> "* * * the shortage of ores must not endanger the program of munition production or armaments in case of war."

A short time later, on 23 July 1937, Goering, in pursuance of the Four Year Plan and on the instigation of Pleiger, announced the establishment of the Hermann Goering Works with the words, "Iron is the decisive raw material to win freedom and space for the people." Koerner became chairman of the supervisory board and Pleiger technical manager and chairman of the managing board. Keppler and Kehrl also were members of the Aufsichtsrat of the Goering Works and of its numerous affiliated companies.

It is impossible to describe here more than the broad outlines of the pervasive authority and activities of the Four Year Plan and of its important offshoot, the Hermann Goering Works. It will appear from the proof that both these organizations, like the Foreign Office, kept pace with each anticipated aggression. Thus, for example, on 14 October 1938, just 2 weeks after the Munich Pact, a speech by Goering reveals clearly that in the calculations of officials of the Four Year Plan, not merely the Sudetenland but all of Czechoslovakia was already counted on as belonging to Germany. In a contemporary report of this meeting some of Goering's remarks were summarized as follows (*1301–PS, Pros. Ex. 971*):

> "The Sudetenland has to be exploited with all means. Field Marshal Goering counts upon a complete industrial assimilation of Slovakia. Bohemia-Moravia and Slovakia would become German dominions. Everything possible must be taken out. The Oder-Danube Canal has to be speeded up. Searches for oil and ore have to be conducted in Slovakia, notably by State Secretary Keppler."

* Ibid., vol. IX, pp. 449–452.

Goering's prophecy might have continued, as the proof will disclose, that the Hermann Goering Works would greatly augment its potency as a producer of armament by absorbing the bulk of the Czech mining, smelting, and steel industry, including the Skoda Works, with the assistance of the defendants Kehrl and Rasche.

The economic policy of Germany in its territories as carried out by the Four Year Plan was both the foundation and result of its aggressions. The systematic exploitation of occupied territory was a premeditated aim of each aggression, and following each invasion the execution of this policy became a springboard for further aggressions. Thus these economic policies and the acts carried out pursuant thereto were not only criminal violations of the laws of land warfare; they were also steps in the commission of crimes against peace as an indispensable means of waging aggressive wars and as preparation for launching still further wars of aggression.

For example, less than two months after the invasion of Poland, Goering set forth the policy for exploitation of its resources by special agencies under the Four Year Plan as follows:

> "* * * there must be removed from the territories of the Government General all raw materials, scrap materials, machines, etc., which are of use for the German war economy.
>
> "For this purpose, I have formed a Main Trustee Office East (Haupttreuhandstelle Ost). * * *."

We have already referred to the activities of Koerner, Keppler, Pleiger, and Kehrl in several of the leading agencies established to exploit Russian resources in complete disregard of the rules of war, and the details of their success in these enterprises on a huge scale can await the proof. We may pause only to note that here, even more clearly perhaps than elsewhere, the plans for spoliation were an integral part of the planning of the illegal invasion itself. Months before the invasion of Russia, plans for its economic exploitation were laid out. In March 1941 Koerner joined the operation staff for Case Barbarossa, the code term for the attack upon Russia, which in fact took place three months later. On 2 May 1941, in a conference of State Secretaries on Case Barbarossa, it was stated (*PS–2718, Pros. Ex. 352*):

> "1. The war can only be continued if all armed forces are fed by Russia in the third year of war.
>
> "2. There is no doubt that as a result many millions of people will starve to death if we take out of the country the things necessary for us."

The decree of April 1942 established the Central Planning Board, and its over-all authority in the economic field necessarily

involved the Board in continuous activity with respect to the general direction of the slave labor program. In the decisions and deliberations of the Board, important figures included not only the defendant Koerner, who was a member of the Board, but also the defendants Kehrl and Pleiger. Kehrl was in practice, virtually a member of the Board. He was chief of the Planning Office, which prepared the material for the conferences of the Board and saw to the execution of its decisions and usually he participated in the deliberations of the Board. Pleiger also took part in many of the Central Planning Board meetings, at which he forcefully urged the labor demands of the German coal industry, which was always considered a most vital sector of the industrial war machine and was one of the largest users of foreign slave labor.

A few of the many statements made by these defendants at meetings of the Board amply illustrate their responsibility for decisions affecting literally millions of foreign workers under conditions which they knew meant slavery on a vast scale and which they also knew would inevitably exact a heavy toll of sickness, semi-starvation and death. At a meeting in the spring of 1943, in which both Kehrl and Koerner took part, Kehrl referred to Pleiger's need for labor in the coal industry as follows (*R–124–J, Pros. Ex. 2283*):

> "What we are losing on coal is definitely lost for this war. Therefore we cannot enforce enough the allocation of labor for mining * * *. We live on foreign men who are in Germany."

Later in the meeting Kehrl continued:

> "I am of the opinion that Sauckel should receive orders to send 70,000 under all circumstances to coal mining."

Another meeting of the Board led to the following formal decision:

> "It is considered necessary that not too high demands should be placed on the choice of PW's. The miners' doctors are to be instructed that a different standard is to be laid down for the PW's than for German miners."

The obvious consequence of such a policy was reflected in a colloquy in another meeting of the Board between Milch and Pleiger. Pleiger stated regarding Russian PW labor (*R–124–B, Pros. Ex. 2275*):

> "* * * If one sees these people one must realize that they are not even able to pass a brick from one to the other. They are completely deteriorated."

Milch later asked Pleiger:

> "How do you explain the disappearances of PW's?"

Pleiger answered:

"Through sickness and unsuitability, partly also through self-mutilation * * *."

Pleiger's special responsibility under the slave labor program extends beyond his numerous appearances at the meetings of the Central Planning Board, which were undertaken in his capacity as the leading official of the Reich Association Coal, usually referred to as the RVK. The proof will disclose that the RVK was an official quasi-governmental association for the "self-administration of the coal industry," which was established in the spring of 1941 with Pleiger as chairman of the governing board or Praesidium. From that time until the end of the war, Pleiger was the leading figure in the management of the German coal industry. During this time the industry made widespread use of foreign slave laborers and prisoners of war in the course of which this human raw material was not only enslaved but also mistreated and in many cases worked to death, with the result that on several occasions even agencies of the Nazi government raised their voices in protest. Thus, for example, in one report of the Ruhr District Group for Hard Coal Mining, in March 1944, it was stated as follows (*NI–2745, Pros. Ex. 1967*):

"The losses of Soviet PW's were especially great in March because by order of the Army High Command all TB cases should have been extricated from the mining industries. On the basis of mass X-ray examinations it was established that this action would entail the loss of ten percent of the PW's employed. As such a loss would have had a very bad influence on the production, in future only PW's suffering from open TB or active TB * * *, that would involve about five percent of the total PW's employed, will be released."

Pleiger, though engaged in the regulation of the entire German coal industry, continued to the end of the war as a leading official of the mining and smelting properties of the Hermann Goering Works. Koerner continued to be highly influential and responsible in supervising the combine and, together with Pleiger, bears responsibility for the exploitation of slave labor by the tens and even hundreds of thousands in its various plants and mines. At the original plant of the Goering Works at Salzgitter, in the year 1941, over half the workers were foreign, and in some of the plants it ran as high as 90 percent.

In the mad scramble for manpower, the Goering Works sought out every conceivable source of labor regardless of the basic dictates of humanity and was thus able to obtain the services of a large number of concentration camp inmates. These efforts were facilitated by the excellent political connections of Pleiger, Koerner, and Kehrl, and their friendship with such key officials

as Keppler, Reich Leader SS Himmler and SS Lieutenant General Oswald Pohl. In fact, Pleiger even entered into joint enterprises with the SS for the purpose of exploiting the labor potential of these victims of oppression. This was handled in a manner which Pleiger, Himmler, and Pohl no doubt considered very businesslike and profits were divided, as they said, on a fifty-fifty basis.

With your permission Mr. Fitzpatrick will continue.

MR. FITZPATRICK: If the Tribunal please, we would now like to discuss the subject of banking and the defendants Rasche and Puhl.

As might be expected, the banking industry was thoroughly coordinated with and tied into the war economy of the Third Reich. We will find close relations and full measure of collaboration between the defendants Rasche and Puhl, with whom we are about to deal, and the four defendants more closely concerned with industrial matters whose activities have just been described.

First of all I would like to discuss Karl Rasche.

Had the Nazis succeeded in winning World War II, there is reason to believe that there would be no more important banker in Europe today than Karl Rasche. His ability and willingness to swing the second largest commercial bank in Germany, the Dresdner Bank, squarely behind the programs of the Nazi and SS leadership, assured him his preeminent position. In the 8 years from 1934 to 1942 the defendant Rasche rose from a little-known provincial banker to become a dominant figure in the great Dresdner Bank.

When, at the end of 1934, the Party sought to install a thoroughly trustworthy and enthusiastic Nazi in the Dresdner Bank, Rasche, sponsored by Keppler, was moved into the Vorstand to coordinate bank policy with National Socialist plans. Rasche's record in the Dresdner Bank thereafter was one of continually expanding personal power.

There were the bankers who joined the Nazi Party earlier, but there were few who joined with better sponsorship. Rasche, as a member of the group known as the Circle of Friends of Himmler, had already been Himmler's guest at Party Rallies at Nuernberg, at SS ceremonies at Munich, and on a visit to the Dachau concentration camp. In July 1937 Fritz Kranefuss of the Circle wrote Rasche that Himmler would like to have Rasche apply for Party membership and that Himmler was prepared to sponsor his application. One of Rasche's associates wrote Kranefuss in reply and I quote:

> "Dr. Rasche's own wish is as stated in your letter. * * * Dr. Rasche conveys his best thanks to the Reichsfuehrer SS as well as to you for your kind mediation."

Himmler's "mediation" of course was successful and Rasche was approved for Party membership.

With the backing of Himmler and the defendant Keppler, Rasche (who had observed the functions of the SS at Dachau, the Gestapo offices and the Security Main Office) likewise had no difficulty in becoming an officer in the SS in November 1938. Well before this time, Rasche, jointly with his colleague Meyer, had been instrumental in providing financial support for the SS by annual contributions of Dresdner Bank funds through the Circle of Friends of Himmler. These subsidies by the bank, which were continued to the end of the war and totalled over 400,000 reichsmarks, were made under the same circumstances as those of such other Circle members as Flick and Steinbrinck, who were found guilty by the Tribunal IV of aiding and abetting in this manner the criminal activities of the SS.

Rasche served the financial needs of the SS in even more substantial ways and thus earned the gratitude of Lieutenant General Oswald Pohl. When Rasche's second promotion in the SS (and a promotion for Emil Meyer) were pending in 1943 the matter was referred to Pohl, who replied, and I quote:

> "I would be very glad if SS Lieutenant Colonel Dr. Emil Meyer and SS Major Dr. Karl Rasche of the Dresdner Bank would be promoted to the next higher grade at the next term. I work together very well with both comrades and both endeavor to help * * * in a correct way when it is possible."

Rasche and Meyer earned this endorsement by using the resources of the Dresdner Bank to support Pohl's concentration camp enterprises. These enterprises were created to exploit the otherwise "wasted" manpower of inmates of concentration camps run by the SS, a fact well-known to the defendant Rasche as a result of his tours of concentration camps with other members of the Circle of Friends of Himmler. For example, in 1939 Rasche supported the loan by the Dresdner Bank of 5,000,000 reichsmarks to Oswald Pohl's Deutsche Erd- und Steinwerke, usually referred to as DEST, and during later years Rasche supported a number of other loans by the Dresdner Bank to this and other such SS enterprises. In its judgment, Military Tribunal II found that, and I quote:[1] "The DEST industries were strictly concentration camp enterprises" and that,[2] "The evidence in this case reveals that there was perhaps no industry which permitted such constant maltreatment of prisoners as the DEST enterprises."

We find support by Rasche and his Dresdner Bank for still

[1] United States *vs.* Oswald Pohl, et al., case 4, volume V, this series, page 1052.
[2] Ibid., p. 1053.

another program carried to ruthless extremes by the SS, the program commonly known as Aryanization, which called for dismissal of Jews from employment and coercive transfer of their property to others. When the defendant Keppler in July 1937 wrote Carl Goetz (*NID–13490, Pros. Ex. 2203*) that it was "imperative to Aryanize" the Merkurbank in Austria and asked that he—and I quote: "designate a gentleman from your institution" —that is the Dresdner Bank—"to cooperate with my office in the above matter," Goetz obligingly replied to Keppler as follows, and I quote:

> "After the decision of the Fuehrer as a result of your report to Aryanize the Merkurbank in order to expand it as a German stronghold in Austria, we must find new ways to attain this goal. I have assigned Dr. Meyer and Dr. Rasche from our Vorstand to get in touch with your office immediately."

In the Aryanization of Jewish-owned property, under the general pressure against Jews and frequently also in connection with special additional coercive measures, Rasche and his subordinates achieved striking success. For example, in Czechoslovakia, the Boehmische Escompte Bank (usually referred to as BEB) guided and supervised by Rasche, operated a model and successful Aryanization department. The defendant's interest and role in the program is indicated in a letter which he received from an assistant in March 1939, promptly after the German occupation of Bohemia-Moravia:

> "Enclosed I am sending you a memorandum concerning various conferences and affairs which will interest you. Tonight a meeting of the German banks takes place at President Kehrl's office,"—that is the defendant Kehrl—"where directives will be given regarding Aryanization of this territory."

A report of the BEB for the period from March 1939 to April 1941 observed (*NID–13463, Pros. Ex. 3095*):

> "When on 15 March 1939 the Protectorate Bohemia and Moravia was established and, at this time, the Aryanization of the economy of Bohemia and Moravia began, our institution was governed by two considerations:
>
> "*First,* we were concerned to transfer our own Jewish business connections into non-Jewish hands and not to allow them to be 'Aryanized away' through our competitors.
>
> "*Second,* we were concerned to make use of this unique opportunity of promoting our business in a grand style and to gain as many new clients as possible through Aryanizations.
>
> "* * * Today we can say that we have in general attained the goal set forth."

The proof will disclose that the Aryanizations accomplished by the Dresdner Bank were not isolated and ordinary business transactions, but, instead, were an integral part of a governmental program which was calculated to employ the services of Rasche and his agencies to make racial persecution effective. In addition, in territory outside the pre-1938 borders of Germany, they frequently involved violations of rights protected by the rules of land warfare.

Spoliation and plunder on an even more extensive and general scale prompted the director of a Dresdner Bank branch to write to Rasche in 1943 (*NID–10996, Pros. Ex. 2688*) :

"We have just heard this jocular verse, very flattering to you, from one of our clients:

"Who marches behind the leading tank?
It is Dr. Rasche of the Dresdner Bank."

This light jingle accurately describes Rasche's zeal in dispossessing the citizens of countries occupied by German armies. Before the invasion of the Sudeten region of Czechoslovakia and during the "war of nerves" of the summer of 1938, subordinates of Rasche were already preparing for the acquisition of Czech bank branches in the Sudeten region. The defendant reviewed and approved these plans. When Kehrl was appointed governmental supervisor for German acquisitions in the Sudetenland, the close association between Rasche and Kehrl, acquaintances through Keppler since 1935, began. Rasche had no difficulty in securing Kehrl's approval to the taking over of twenty-six branches of the BEB and four branches of the Zivnostenska Bank, under circumstances involving coercion upon the former proprietors. Thereafter Rasche directed the planning for the acquisition of the BEB itself. Rasche's project was approved at a conference for the division of Czech banking institutions among the German "Great Banks," at which Kehrl presided. When German forces invaded Prague in March 1939, representatives of the Dresdner Bank marched at their heels and took over the BEB in an informal but effective manner, and transfer was afterwards formalized. With the BEB established as an affiliate of the Dresdner Bank, Rasche became Chairman of the Verwaltungsrat.

Next, Kehrl and Rasche received a much broader assignment from Goering. It was no less than bringing about the transfer of the most important heavy industries of Czechoslovakia into German central ownership. This task was part of the program for Czechoslovakia which, in the short term, sought to utilize Czech industry for waging war and, in the long run, intended to Germanize both the population and economy. As Rasche himself

described the mission in a letter to Gritzbach, Goering's adjutant, in 1943 (*NID–2028, Pros. Ex. 3103*):

"Already at the time when the Sudetenland returned home to the Reich in 1938 and when the BEB transferred its Sudeten branches to the Dresdner Bank, and future developments could not be foreseen, we tried at the request of German governmental authorities to establish German influence over the industries of the Protectorate. In this we were successful * * *. In the further course of events a more comprehensive and special authority was given to Kehrl and myself by the Reich Marshal in order to acquire and reorganize such industrial concerns, and I believe that we have gotten good results in discharging this task."

Through a variety of techniques, which included "purchases" by artificially valued reichsmarks under German-made economic conditions, Aryanization, registration, sequestration, and confiscation, outright or through "trusteeships," and the use of threats, open or veiled, these "good results" were indeed achieved. Steel works, rolling mills, coal and iron ore mines, and machine tool and armament factories passed into the trusteeship of Kehrl and Rasche, the shares being paid for in part by credits from the Dresdner Bank and the BEB. Rasche handled most of the direct negotiations, and Kehrl also took a forceful hand, using the services of the Gestapo where advisable. In August 1939 Rasche wrote the following note to Himmler's adjutant, Karl Wolff:

"You will remember that I pointed out how valuable the support offered by the SD Special Departments Prague and Brno was to me and my staff from the very beginning of the negotiations. That not only helped me considerably in attacking the many problems we had to face, but also led to the reduction of the basis of the purchase price by a substantial amount of foreign exchange on the ground of arguments which even the opposite side recognized * * *."

The activities of Rasche and his agents were by no means confined to Czechoslovakia, but covered the whole of Europe, as the proof will abundantly show. In themselves and taken singly, often these activities consisted of seemingly ordinary banking transactions—advancing credits and purchasing securities. But in their context, purpose, and design, these "innocuous" acts emerge as part of a long range course of conduct which was carefully and fully integrated into schemes of enormous criminality. Loans *per se* may not be criminal, but loans to the DEST purposely to enable the enslavement, torture, and murder of thousands of persons, with full knowledge that the loans had such a result, do constitute a serious crime. The isolated acqui-

sition of a single piece of Jewish property in Germany or the occupied territories might appear insignificant, but the German program of racial and religious persecution rested upon the eagerly offered services of wholesale "Aryanizers" like Rasche in the Dresdner Bank. Rasche deliberately supported and participated in these criminal plans, using the resources of the Dresdner Bank as necessary, and his criminal responsibility is clear.

With the Court's permission, I will now discuss the defendant, Emil Puhl.

The defendant Emil Puhl was the servant of the German Reich Bank, of the SS upon several important occasions, and of the National Socialist Party. Almost his entire working life was spent in the Reich Bank, Germany's central bank and a public institution. He began in 1913 as a clerk and advanced steadily to "Director" in 1933, to the Reich Bank President's Acting Deputy in 1939, and to Vice President in 1940.

Reich Bank President Schacht on 7 January 1939 submitted to Hitler a report signed by the Directors of the Reich Bank which urged a curtailment of armament expenditures and a balanced budget to prevent inflation. On 19 January Hitler dismissed Schacht as President and most of his Directors left and were replaced by men more acceptable to the Nazi Party leaders. Puhl however remained. Walther Funk was appointed President to replace Schacht, and on 11 February 1939 Puhl became his Acting Deputy, presided over the meetings of the Reich Bank Direktorium and dominated the affairs of both the Reich Bank and its subsidiary, the Golddiskontbank. Funk, lacking banking experience, seldom interfered in the management of either institution.

In the early fall of 1939, Oswald Pohl's industry, the DEST, which has already been described, was pressed for funds. The 5,000,000 reichsmarks loan granted by the Dresdner Bank was insufficient for the full expansion of "economic activities" as planned by the SS. Oswald Pohl, whom Military Tribunal II found was "an admitted slave driver on a scale never before known," approached the defendant Puhl and asked for financial support from the Reich Bank. A subordinate of Puhl wrote to him in August 1939 describing the request and I quote:

> "The SS has established various economic enterprises in order to use prisoners of concentration camps (mainly persons held in protective custody) as labor for tasks of the Four Year Plan. * * * The most important enterprise, for which credit is sought, is the Deutsche Erd- und Steinwerke GmbH, Berlin. * * * The expense for labor * * * is slight, because the labor

force consists in the main of prisoners, most of them people who are being held in protective custody (at present approximately 4,000)."

Puhl made an exhaustive personal investigation of the SS project, including a tour of such concentration camps as Oranienburg, and careful inspection of the DEST books and records. Because both the Reich Bank and the Golddiskontbank were legally barred from advancing funds in such a case, the defendant Puhl urged and approved the device of ostensibly utilizing funds of the Reich Economics Ministry which were on deposit at the Golddiskontbank, and secured the approval of the Golddiskontbank and Reich Bank to this plan. As Puhl described the transaction in a letter to Lange and the Vorstand of the Golddiskontbank in September 1939, and I quote (*NID–14461, Pros. Ex. 1922*):

"In the course of the conversation with the Reich Economics Minister and President of the Deutsche Reichsbank, we agreed that from our side financial assistance will be given according to the wishes of the Reichsfuehrer SS. I have reported to the Minister about the setup of the Deutsche Erd- und Steinwerke GmbH as per enclosed statement and * * * told him about my personal impression * * *. We agree that the credit in question cannot be considered from the viewpoint of ordinary business. * * *"

As a result, the Golddiskontbank advanced RM 8,000,000, an amount 400 times the base capital of the DEST, at an extremely low rate of interest. Thereafter the defendant Puhl aided the DEST to secure reductions in the rate of interest and deferred the time of repayment.

In May 1941, the DEST, its labor force swollen by the addition of slave workers from the occupied territories, found itself in need of additional funds, and remembering past pleasant relations with Puhl, wrote again to the Golddiskontbank and I quote (*NID–14647, Pros. Ex. 1926*):

"In our brief report to Reich Bank Director Dr. Dauer on the progress made in our plants it was also mentioned that the Reichsfuehrer SS had ordered [us] to expand our enterprises, in which prisoners of concentration camps are used for work, considerably beyond their original size * * * and we apply now to you * * * to kindly examine the possibility of granting an additional RM 8,000,000."

Again, the defendant Puhl provided support to the request, so that within a week's time the new loan was granted.

But Puhl was to make himself even more useful to Heinrich Himmler and to Oswald Pohl. The extermination and deportation of the Jews in the East produced a vast amount of valuable

property which the SS seized. To marshal these resources, the so-called "Action Reinhardt" was instituted. Military Tribunal II, in its judgment in the Pohl case, found and I quote:*

> "The fact that Pohl himself did not actually transport the stolen goods to the Reich or did not himself remove the gold from the teeth of dead inmates does not exculpate him. This was a broad criminal program requiring the cooperation of many persons, and Pohl's part was to conserve and account for the loot."

Emil Puhl's part was to receive this loot, including the gold teeth, from Oswald Pohl, to safeguard and conserve it, and to dispose of part of it and account for the proceeds.

Himmler had contacted Funk and had reached an agreement with him whereby the Reich Bank would handle this loot which would be transported to the Reich Bank by the SS. The defendant Emil Puhl was entrusted with the execution of the agreement and he worked out the details in his own office in the Reich Bank with Oswald Pohl. Pohl entrusted the deliveries of the gold teeth and other loot to an SS-man named Melmer. Subsequently, the delivery of these valuables to the Reich Bank was discussed on the telephone between Pohl and Puhl's assistant at the Reich Bank, a man named Thoms. The fact that these valuables had been taken from the bodies of concentration camp inmates was quite plain from the fact that many of the items were stamped "Lublin" or "Auschwitz," which were well-known to be the sites of concentration camps, and from the very unusual amount of dental gold. By the end of the war, the Reich Bank had accepted 76 shipments of this bloodstained SS loot, and the total value of these shipments exceeded 60,000,000 reichsmarks.

With Your Honor's permission, I would now like to move to the subject of the government ministries.

Between the economic ministers and bankers, on the one hand, and the government ministers on the other, there is of course no sharp line of division. The activities of several of the Reich Ministries lay partly in the economic field, and this is particularly true of the Ministry of Food and Agriculture, with which we will begin.

And with that, I would like to discuss the defendant, Walther Darré.

Like Hitler and Hess, Richard Walther Darré was born outside of Germany. Born in Argentina of German parentage, he went in his early youth to Germany where he received most of his education. Like Rosenberg, he was one of the mystic pseudo-intellectuals who furnished a large part of Hitler's program and the

* United States *vs.* Oswald Pohl, et al., case 4, volume V, page 989, this series.

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ideology underlying it. His book entitled, "Peasantry as the Life Spring of the Nordic Race," attracted Hitler's attention in 1930, and led to their close acquaintance. Shortly afterwards, Darré was commissioned as one of the original seventeen Reich Leaders of the Nazi Party to organize the office of agrarian policy within the Party. He became one of the small circle at the very top of the Nazi Party and, as the senior lieutenant general, Darré ranked sixth in the entire SS.

Darré's mystic preachings stated that the bases of the State were "blood and soil," that is, "blood," the human beings who give it life and character, and the "soil," the space available for its existence. Germans, he said, were "people without space." To solve the problem, Germany must obtain space in the East.

But Darré was no mere theorist. As Reich Minister of Food and Agriculture from 1933 onward, he early recognized that the expansion of Germany by aggressive means could only be achieved by providing the nutritional basis for the marching armies. As early as the summer of 1934, he proclaimed the so-called "Battle of Production" which was the first of many steps taken by Darré to make every possible preparation for war within his jurisdiction. A huge program for stockpiling of grain was developed. In a secret report of 31 December 1937, "The Preparation of the Economic Mobilization by the Plenipotentiary General for the War Economy," we find reference to drafts by Darré of an overall organization for the war food economy. In a circular prepared jointly by Darré and Frick on 8 September 1938 for the eventuality that Czechoslovakia would have to be taken by force, it was said, and I quote (*NG–465, Pros. Ex. 1032*):

> "The Reich Ministry of Food and Agriculture has now finished a draft of a series of decrees which contain the necessary provisions for the introduction of a war food economy in the case of war and are to be put in force with the order of mobilization."

The organizational basis was ready for the expected attack upon Czechoslovakia and only the Munich agreement temporarily postponed war. However, just prior to the invasion of Poland, on 31 August 1939, the war food economy program was introduced by decrees which had already been drafted by Darré's Ministry in 1938.

The importance of Darré's contributions to the preparation for aggressive war is aptly summarized in his own words. In November 1939 Darré, with great pride, submitted to Goering a report on his achievements, which stated, and I quote: "The whole work of agrarian policy since the seizure of power was

already dominated by the preparation for a possible war," and in 1942 Darré wrote that, and I quote:

"In a gigantic struggle before 1939 I created the prerequisites which made it possible for the Fuehrer to wage this war as far as food is concerned."

When Darré wrote and made speeches about "Soil," he meant not only the mobilization of German soil for war; he also meant that Germany had the right to seize the soil and its products of other countries. This precept, too, he put into practice. As country after country was overrun by Germany, their agricultural resources were in turn ruthlessly exploited for the benefit of Germany, with Darré and officials under his direction playing a large part.

Why did Darré make himself an important and enthusiastic participant in wars of aggression and schemes for the economic ruination of other countries? The answer is found in the first half of the phrase "blood and soil." Darré vigorously preached the doctrine of German racial superiority. He vied with Streicher, Dietrich, and Goebbels in inciting and leading Germans to persecution of Jews inside Germany and later of other unfortunate peoples in occupied countries who were deemed racially inferior under Nazi ideology, which Darré himself had helped to foster. In books and speeches Darré repeatedly urged, as he put it, that "Germany should be freed from each and every Jew." His incitement to persecution of Jews took such forms, for example, as these few of his many statements, and I quote:

"The difference between fascism and national socialism was that the Fascist did not realize enough the importance of race, of blood and soil and that though the Fascists knew of the "Jewish Danger," they did not take the necessary steps.

"Jewish democracy is the consequence of liberalism—the peasantry will be ruined by democracy, since democracy is Jewish.

"The peasantry has only two possibilities, either the elimination of Jewry, or complete ruin brought about by the Jews."

Darré again demonstrated by his actions that he meant what he said. He carried the campaign to the Reich Ministry of Food and Agriculture and to the Reich Food Estate where, through the medium of laws and decrees, he expelled all Jews from every phase of German agriculture and discriminated against Jews in the distribution of food. The Reich Food Estate was given the task of "combatting the Foes of the Peasantry—the Jew, the Jesuit, the Free Mason". All such anti-Semitic measures were extended to the occupied territories and particularly, they affected the Polish Jews.

But Darré's active promotion of racial persecution went still further. From 1931 to 1938 he served as the first head of the notorious SS Race and Settlement Main Office, and again he was able to put his program into practice. Resettling of German farmers in Polish territory was advocated by Darré as early as 1930. Final execution of the program was assigned to Himmler as the Reich Commissioner for the Strengthening of Germanism, supported by Darré as the Reich Minister of Food and Agriculture. After the conquest of Poland, under the guise of creating a New Peasantry, Germans of acceptable racial and political background were early settled in the East where they were assigned the property of Polish nationals, most of whom had been shipped to Germany and elsewhere for slave labor. Special sections were set up by Darré in the Reich Ministry of Food and Agriculture to facilitate its active participation in the resettlement program.

To complete his work in effectuating his own and Hitler's doctrines, he played his part in the German slave labor program. In fact, it was in Darré's Ministry that the first large impetus for enslavement of conquered peoples took form. As early as 19 December 1939, Darré's demands for 1,500,000 Polish farm laborers for German agriculture were presented to the General Council of the Four Year Plan. Not satisfied with the results of this request, Darré arranged a conference in Berlin with Hans Frank, the Governor General of Poland, at which Darré's urgent demand for 1,000,000 Poles from the Governor General was communicated to Frank. At a later date, a representative of Darré was present at a conference held by Frank in Poland during which Darré's demands were again presented, whereupon Frank reviewed the attempts to enlist voluntary workers for assignment in the Reich and inquired whether "Polish workers could be recruited by coercive measures." The reply being in the affirmative, Frank further stated, "that the path had now been indicated. Where the labor department could not achieve results, the police must step in."

Although during the course of the war Darré retired from active leadership of the Reich's agricultural agencies, he was a major pillar of the Third Reich and a major criminal against humanity and civilization. Darré, like Dietrich, Rosenberg, Goebbels, and Streicher, was one of the master builders of the ideology from which followed quite logically all the major crimes of the Third Reich. These crimes fulfilled the hopes and the plans of Darré himself; and he played a leading role in their execution.

If it please the Tribunal, Mr. Hardy will now continue the reading.

MR. HARDY: May it please the Tribunal.

PRESIDING JUDGE CHRISTIANSON: Mr. Hardy.

MR. HARDY: I will now proceed to the individual responsibility of the defendant Otto Dietrich.

Press and propaganda, as an indispensable instrumentality of the totalitarian state, experienced an extraordinary measure of exploitation at the hands of Hitler, Goebbels, and the defendant Otto Dietrich. This was accomplished to a degree never before dreamed of, in terms of technical efficiency, range, depth and intensity, nuance of expression, and timing. Hitler said in "Mein Kampf":

> "With the help of a clever persistent propaganda, even heaven can be represented to the people as hell, and the most wretched life as paradise * * *."*

The "clever persistent propaganda" consisted largely of generous doses of poison which flowed night and day from presses throughout the Third Reich into the veins of German and world thought.

This venom was prepared and distilled by the defendant Otto Dietrich from the time of his appointment by Hitler as Reich Press Chief of the NSDAP in August 1931 until shortly before the end of the war. His power and responsibility over the Party press in the Third Reich were defined in February 1934 when Hitler decreed (*NG–3081, Pros. Ex. 857*):

> "He [Dietrich] directs in my name the guiding principles for the entire editorial work of the Party press. In addition, as my Press Chief, he is the highest authority for all press publications of the Party and all its agencies.
>
> * * * * * * *
>
> "All the press divisions, press offices, etc., within the Party or its affiliated and subsidiary organizations (political organizations, SD and SS, Hitler Youth, German Labor Front) are, irrespective of their particular administrative affiliation, subordinate and responsible in their publicity work to the Reich Press Chief of the NSDAP."

This supreme authority over the Party press was further extended to include all the newspapers and periodicals within Germany in November 1937, when Dietrich was appointed by the Fuehrer to the position of Reich Press Chief of the government, and State Secretary in the Propaganda Ministry.

With the advent of the Nazis, a complete remodelling of press and propaganda apparatus of government took place. By a

* "Mein Kampf", German Edition—1941, page 302.

Hitler decree of 13 March 1933, a Ministry of Public Enlightenment and Propaganda was created. In October 1933 an Editorial Control Law, formulated by the defendant Dietrich, was enacted which placed all editors under the yoke. An organization euphemistically entitled the Reich Chamber of Culture was established in September 1933 which insured complete control over every cultural worker in Germany. Thus, as the IMT concluded, "independent judgment, based on freedom of thought, was rendered quite impossible."*

As the Government Press Chief, Dietrich directed and controlled the Press Division of the Reich government in the Propaganda Ministry. This division was composed of three sections; the German press, the foreign press, and the periodical press. The German press section directed all press and journalistic activities of the Third Reich, thereby bringing the independent German newspapers "into line" with the Party press machine. This was ingeniously accomplished by setting up a technique of political control through day-by-day directives, binding upon all editors. This control of the German or home press section was carried out through compulsory press conferences wherein these confidential and secret directives were given to the newspapermen. The subsequent destruction of these directives was mandatory. Failure to comply with them meant severe punishment. The murky twilight which had settled over the German press with the advent of Hitler had now deepened into night. The blackout of freedom of the press was complete.

In charging the defendant Dietrich under this indictment, we do not cast any aspersions upon the concepts of press and propaganda as living forces for national health and well-being. The tools used by the defendant Dietrich boast a noble origin and history. It is to their prostitution and subversion that the world solemnly objects. It is to their demoniac perversion of the possibilities and potentialities of these instruments for good—to the hysterical fomenting of public sentiment for aggression, to the agitation for widespread anti-semitism, and pseudo-scientific support of racist philosophies—that the prosecution points an accusing finger. Were any government to install a loudspeaker in every public square, urging and inciting riots against minority elements, or were it to issue, as did the defendant, daily instructions to editors particularly describing the type and set-up of inflammatory material desired, such abuse of power should be condemned with equal vigor. As one of the rulers of the State, and in the absence of a domestic opposition press which he and his colleagues had carefully abolished, the defendant ordered

* Trial of the Major War Criminals, op. cit., volume I, page 182.

and refined these abuses. The audiences addressed by the defendant were not casual groups incited to passion by an occasional eloquent spellbinder. The potential mob here was composed of the entire German people, and the spellbinders—the 3,097 newspapers in the Reich—all were briefed daily by the defendant. When we recall that the newspapers of Germany represented the highest newspaper coverage in the world, exceeding by far the 1,911 journals of the United States, and the approximately 1,500 of France, the power exerted by the defendant becomes apparent.

Dietrich began his intimate association with Hitler in 1929 when, as a young newspaper editor from the Rhineland, he had thrown in his lot with the rising demagogue. He had acted as press manager for the Fuehrer in his early struggle for power; he had introduced him to the steel magnates to whom Hitler had turned for support at the famous Duesseldorf meeting; and he had handled for Hitler all press matters incident to the latter's sensational 30,000 mile aerial election campaign of 1931, during the course of which Hitler spoke to 14,000,000 Germans.

He was essentially "Hitler's man." However, the defendant was no faceless automaton who acted as a mechanical conduit for the wishes of the Fuehrer. Nor, as the evidence will show, did he sit supinely by, as he may ask us to believe, dutifully nodding his approval to Hitler's suggestions. Hitler relied on his Press Chief for information concerning the home and foreign press. It was Dietrich who selected the news items for Hitler's attention. This choice by the defendant was decisive!

The prosecution has charged that the defendant Dietrich initiated and formulated press campaigns before each aggressive act to weaken the prospective victims, provide spurious justification for aggression, and prepare the German people psychologically for war. The dissemination of provocative lies and the systematic deception of public opinion were as necessary for the realization of their program as were the production of armaments and the drafting of military plans. The International Military Tribunal found that prior to the invasion of Czechoslovakia—

> "In February 1939, and before the absorption of Bohemia and Moravia, for instance, he [Fritzsche] received Dietrich's order to bring to the attention of the press Slovakia's efforts for independence, and the anti-Germanic policies and politics of the existing Prague government."*

During this period, the "Voelkischer Beobachter," the leading Party newspaper, carried such headlines as the following:

> "Terrorization by arrest of ethnic Germans in Czech territory."

* Ibid, vol. I, p. 337.

"Firing on ethnic Germans by rural police."

"Destruction and damaging of German houses by Czech mob."

"Concentration of Czech troops on the borders of the Sudetenland."

"Carrying off, deporting, and persecuting of Slovak minorities by the Czechs."

"The Czechs must quit Slovakia."

Multiply these fabrications by more than 3,000, the total of German newspapers of the Reich, augment this figure further by adding the hundreds of periodicals which likewise reflected Dietrich's directives, and the power and effect of his press control becomes apparent.

After the destruction of Czechoslovakia, Dietrich adjusted his propaganda sights and cleverly formulated a press campaign to weaken the next prospective victim, and provide spurious "justification" for aggression by the falsification, distortion, and perversion of news. This time the victim was Poland. The defendant's secret directive to the German press for 2 May 1939, four months before the invasion began, was fearfully prophetic (*NG–4485, Pros. Ex. 891*):

"The individual statements of the Polish press can be further sharply denied by the German press. There should, however, in all commentaries and reports, be no direct threats to Poland. * * * Moreover, it may already be stated that if Poland continued to represent the point of view of the Polish press, which lies beyond the political and geographical hypotheses, the Polish nation is headed for a sad future."

In a directive of 8 May, Dietrich became more explicit (*NG–4479, Pros. Ex. 893*):

"CONFIDENTIAL AND IMPORTANT! For tactical reasons, the German press should exercise some restraint with regard to the numerous communiques from Poland, for the great Polish campaign has not yet been ordered. The instruction is given that until further notice only German News Agency (DNB) reports are to be published and only on page two. All sensational composition is to be avoided. Only the eastern German press is allowed, as before, to print reports of this kind on page one. The eastern press can also publish its own reports from its correspondents in Warsaw and Katowice. In case of particularly serious incidents, special communiques will be published."

By the beginning of August, under the sensitive direction of the defendant, the press orchestra was stepping up its crescendo to a fortissimo climax. On 11 August a directive issued at the daily

press conference had strategic overtones (*NG–4483, Pros. Ex. 896*):

"From now on, all Polish excesses against ethnic Germans and similar incidents, which reveal the hatred of the Poles of everything German, should be handled as communiques on the first page and commented on. Of course, the interpretation should not yet be made in the most severe tone, in order that there will still be a possibility of making it sharper. These instructions, pending further orders, will apply to the whole of the next week."

On 19 August the defendant spoke to his editorial staff on tactics. The directive on that day was (*NG–4484, Pros. Ex. 897*):

"As regards the treatment of Poland in the German press, the interpretation is to remain the same; that is, the terror acts to the fore. In formulating the reports, strict attention must be paid that they are put together concisely and briefly, no long-winded feuilletons, but only placard-like communiques, in order that they may have the strongest effect on the German public and arouse indignation. It is also advisable to present the reports (of the atrocities) always as independent reports and not to connect them one with another without a break. The reports should, however, not publish anything which hints in any way at a self-dissolution of the Polish State, for there can be no question of that. It is also not expedient to speak of the 'Polish Mosaic State'; this conception is reserved for later. The conception 'Polish Soldiery' is to be avoided."

On 25 August another directive reminded the press that (*NG–4487, Pros. Ex. 899*):

"Poland and Danzig continue to occupy the leads. In this connection the following are to be played up:—Military preparations of the Poles as offensive measures against Germany. With respect to the construction of fortifications in Poland, avoid any mention of defense positions, but refer only to jumping-off positions for the planned attack.—The provocative behavior of Polish military and official organs, which nullified intentions aimed at prevention.—The hermetical sealing-off of Danzig with respect to accessibility to food supplies.—Terroristic activities."

Finally, on 31 August all the stops were open, in a directive ordering screaming headlines on Polish mobilization, suggesting leads like "Poland, the Disturber of Europe's Peace", "Poland's act of desperation", etc. The intent behind these directives can be seen from one of 30 August, which expressly cautions the press to make no reference to "foreign proposals of mediation in the German-Polish dispute"; as the defendant was well aware,

the die had been cast. On 1 September 1939 Warsaw was bombed and the invasion had begun.

The foregoing will suffice to show the methods of Dietrich and his highly important role in assisting Hitler in launching his invasions and aggressive wars. The proof will disclose the same methods employed by Dietrich at the proper time in connection with each succeeding step in the wars of aggression.

Dietrich's work did not end with the completion of each successful aggression. His participation in the occupation of these conquered territories was a vital one. Dietrich insisted on appointing his own press chief in each such territory, responsible only to him. And, it is important to note, the line of press policy had to conform to Dietrich's policy within the Reich.

With respect to the charges of war crimes and crimes against humanity against Dietrich, we shall see that he took advantage of every opportunity to inject the virus of hatred into the bloodstream of the German people. In keeping with the policy to encourage the civilian population to lynch Allied fliers forced down by military action, Dietrich's press machinery incited the civilian populace by divers methods. A daily directive of the Reich Press Chief, dated 22 December 1943, illustrates the ghoulish technique:

> "* * * the newspapers are requested to take up once again energetically the subject of England's responsibility for terror methods in the conduct of the war. In connection with the material already on hand on this subject—among other things, a new congratulatory message of Churchill for the Anglo-American terror fliers has been published—it must be established that the war criminal, Churchill, will one day receive his punishment for his historical guilt. In commenting, it must furthermore be observed that nothing must be mentioned on the subject of reprisals on our part or of retaliation."

Dietrich incited hatred and conditioned public opinion for mass persecutions on political, racial, and religious grounds. Through his efforts the rationale and justification for the liquidation of Jews was presented to the German people. Dietrich's responsibility in this respect is far more effective than that of Streicher, for Streicher's field was limited to his single paper with a circulation of 600,000, whereas Dietrich had at his disposal not only Streicher's paper, but more than 3,000 other publications with a circulation of better than 30,000,000 to disseminate anti-Semitism in a vastly more comprehensive manner. Dietrich instructed all these publications that Jewish themes should not, as he put it, "be seized upon unimaginatively, but used only to incite."

We will advert briefly to the numerous directives given by

Dietrich to the newspaper and periodical press prescribing the treatment of the Jewish problem. On 21 August 1941 he ordered (*NG–4702, Pros. Ex. 1259*):

"It is to our interests that all Jewish statements against Germany or the authoritarian states should be well noted. The reason for this wish is that measures of an inner political nature may be expected."

Another press instruction on 26 September 1941 read (*NG–4701, Pros. Ex. 1261*):

"With reference to the marking (Armbands, etc.) for Jewry, the opportunity is offered to handle this theme in the most varied ways, in order to make clear to the German people the necessity for these measures, and especially to indicate the obnoxiousness of the Jews. From tomorrow on, the special delivery service will provide material to be used as proof of the injuries which Jewry has inflicted upon Germany, and the destiny it has envisaged for her, past and present. This material must be utilized with caution."

The *German Weekly Service,* controlled by Dietrich, in a "Special Anti-Jewish Issue" to periodicals of 21 May 1943, issued the following directives (*NG–4716, Pros. Ex. 1272*):

"The duty of all periodicals is to work up attacks on the destructive influence of the Jews with respect to the cultures of peoples. The effect desired is the elimination of any vestige of popular sentimentality for the 'poor Jews.'

"Every individual Jew, wherever he is and whatever he does, is to blame. There are no 'decent Jews', but rather only those with greater or lesser camouflage. The Jew is a notorious criminal."

The defendant's directives to the newspapers often contained rebukes for previous moderation and explicit instructions for the use and techniques calculated to incite their readers to applaud the outrages then under way; the directive of 29 April 1943 was a manual of the technique of anti-Semitism in practice (*NG–4705, Pros. Ex. 1270*):

"In yesterday's and today's Daily Parole we have addressed ourselves to the subject of Jewry frequently. * * * In headlines and text material, the Jewish Bolshevist murder and arson ring must always be referred to, not only today or tomorrow, but continuously must the world's mortal enemy be unmasked and grappled with. The press is receiving the appropriate DNB yellow Jewish material which must be worked up accordingly. In this connection, from now on it is the future duty of the press to apply itself with greater intensity to the Jewish question as its permanent duty. * * * From now on the

main question is the building up of anti-Semitism. It is clear that one cannot pull anti-Semitism out of a vacuum, but that one must have a certain basis for it, any kind of theme to which everything else can be adapted. With this in mind, the newspapers will receive a Jewish theme daily, one that should not be seized upon unimaginatively, but used only to incite. The newspapers here have a wide field and there are countless sensational stories wherein the Jew is depicted as the author of crime, which can be used. First of all, American internal politics offers an inexhaustible reservoir. If the newspapers put their assistants to work here, we will have the opportunity to see the true face, true behavior, and true desires of the Jew depicted daily in ever new and varied forms. For the rest, the Jew must naturally be brought into the German press politically as well. In everything it must be established that the Jews are to blame! The Jews wanted the war! Everywhere throughout the world, the Jews prepared the war against Germany! The Jew intensifies the war! The Jew profits by the war! Always and everywhere the Jew is to blame! Naturally, those reports which do not lend themselves to anti-Semitic treatment must be adapted for use as anti-Semitic propaganda. * * * The possibility of playing up the true character of the Jew is infinite. * * * It is the duty of the entire German press to join in the above depicted anti-Semitic operation."

It was stated in part in an explanation of the defendant's Daily Parole of 15 February 1944 that:

"The instigator, supporter, and leader of this war is, and will remain, the international Jew—that criminal race which now, as in the centuries past, is to blame for the fact that the nations of the earth are arrayed against one another in war. An understanding among the peoples of the earth can be hoped for only when this world pest once and for all is stamped out."

Let us face the issue squarely. The defendant Dietrich is charged with an attack on the human mind and spirit.

He is charged with the responsibility for warping the collective mind and spirit of millions of people, not in the pursuit of a civilizing mission, but for the uses of war and annihilation. He was a Frankenstein who produced a monstrous mass hypnosis, and who, as much as any man alive or dead, bears guilt for the cataclysm of war and the extermination of millions.

Then I will proceed to the defendant Wilhelm Stuckart.

The defendant Stuckart, State Secretary in the Ministry of the Interior from 1935 to 1945, was the administrative and legislative specialist serving successively under Minister Frick and

then Himmler, who succeeded Frick in 1943. Stuckart's Department I in the Interior Ministry was the central agency which had final authority on constitutional questions; jurisdiction over government administration and civil defense; authority over the civil service, responsibility for drafting pertinent legislation, and was the final arbiter of questions concerning citizenship and race. The Nazi method of passing laws through personal decrees and edicts required a central organization to maintain consistency and uniformity in the legislative and administrative practices of the government, otherwise the Third Reich would have disintegrated by virtue of its own incoherency.

Stuckart looms into prominence in the incorporation of the conquered territories into the Third Reich. He headed the central offices for the civil administration of Austria, Sudetenland, Bohemia and Moravia, Alsace-Lorraine, Luxembourg, Norway, and the occupied southeastern territories. As Frick's deputy, he shares in the guilt, summarized in the judgment of the IMT as follows:*

"Frick signed the law of 13 March 1938 which united Austria with the Reich and he was made responsible for its accomplishment. In setting up German administration in Austria, he issued decrees which introduced German law, the Nuremberg decrees, the Military Service law, and he provided for police security by Himmler.

"He also signed the laws incorporating into the Reich the Sudetenland, Memel, Danzig, the eastern territories, (West Prussia and Poznan), Eupen, Malmedy, and Moresnet. He was placed in charge of the actual incorporation, and of the establishment of German administration over these territories. He signed the law establishing the Protectorate of Bohemia and Moravia.

"As the head of the Central Offices for Bohemia and Moravia, the Government General, and Norway, he was charged with obtaining close cooperation between the German officials in these occupied countries and the supreme authorities of the Reich. He supplied German civil servants for the administration in all occupied territories, advising Rosenberg as to their assignment in the Occupied Eastern Territories. * * *"

Stuckart participated in drafting the secret Reich Defense law of 4 September 1938. In a conference in which he presided as chief of staff of the Plenipotentiary General for Administration (GBV), Frick, he explained the purposes of the law as follows (*NG–1264, Pros. Ex. 552*):

"In case of war, it will be the task of the GBV to issue legal

* Ibid., vol. I, pp. 299–300.

decrees, within the jurisdiction of these above named ministries (Reich Ministries of Justice, of Education, and of Ecclesiastical Affairs) which continue to conduct their affairs on their own responsibility, and in general to direct and guide the public administration. These tasks have to be prepared already in time of peace."

He was present at a meeting of the Reich Defense Council on 23 June 1939. According to the minutes of this meeting (*3787–PS, Pros. Ex. 553*):

"Minister President Field Marshal Goering emphasized, in a preamble that, according to the Fuehrer's wishes, the Reich Defense Council was the determining body in the Reich for all questions of preparation for war. It is to discuss only the most important questions of Reich Defense. They will be worked out by the Reich Defense Committee."

Stuckart was appointed President of this committee, which in the words of Goering "was an important section of the preparation of war." Stuckart's close cooperation with the agencies engaged in the preparation for war continued, and in 1939 he was appointed by Goering to the General Council for the Four Year Plan which acted as a clearing house for the synchronizing of all agencies engaged in the planning and preparation for war.

Stuckart's anti-Semitic crimes ran the gamut. In 1936 he became president of a committee organized within his department in the Ministry of the Interior "For the Protection of German Blood." He wrote, lectured and preached on the superiority of the master race. He emphasized the duty of safeguarding "pure German Blood" and the importance of preventing marriages between Germans and Jews. He put his theories into effect by drafting the notorious Nuernberg laws and supplemental decrees by which successively, political, civil, religious, and economic rights were denied to persons of Jewish extraction. Later, he helped to extend these laws to the incorporated and occupied countries.

Decrees which Stuckart drafted deprived Jews of the right to vote or hold public office; excluded them from the practice of law, medicine, and dentistry; required registration of their property without any process of law; and, finally, denied them any semblance of legal right by placing them under the jurisdiction of the Gestapo. In 1943 Stuckart wrote—

"One can consider the aims of the racial legislation as already achieved, and the racial legislation therefore as mainly concluded. As stressed above, it has brought about a preliminary solution of the Jewish problem, and at the same time substantially prepared the final solution. Many of the pro-

visions will lose their practical importance to the same extent as Germany is getting close to the final goal of the Jewish problem."

The proof will clearly show Stuckart's participation in the "Final solution of the Jewish Question." According to the minutes of the conference held on 20 January 1942—

"The practical execution of the possibilities just discussed for settling the mixed marriage and the Mischling problems in this way would entail an endless administrative task. On the other hand, in order also to take into account in every event the biological actualities, State Secretary Dr. Stuckart suggested that compulsory sterilization be undertaken."

At this meeting it was concluded that—

"The emigration program has now been replaced by the evacuation of the Jews to the East as a further solution possibility.

"With proper direction, the Jews should now, in the course of the final solution, be brought to the East in a suitable way for use as labor. In big labor contingents, with separation of the sexes, the Jews capable of work are brought to these areas and employed in road building, in which task undoubtedly a great part will fall out through natural diminution.

"The remainder surviving all mischance to the end—since with these it is doubtless a question of the part with the strongest resistance—must be given treatment accordingly, since these people, representing a natural selection, are to be regarded as the germ cell of a new Jewish development, should they be allowed to go free. (See the experience of history.)"

Stuckart was also deeply involved in the crimes committed under the euphemistic name of Germanization. Himmler, in his position as "Reich Commissioner for the Strengthening of Germanism", had set the task of political, cultural, social and economic assimilation of the conquered territories, and the extermination of all irreconcilable elements. Kidnaping, as well as murder, was utilized as a method to implement the program. In February 1942 Himmler sent to Stuckart's department a letter containing the following:

"The Higher SS and Police Leaders are to pay particular attention that the re-Germanization of children does not suffer as a result of detrimental influence by the parents. Should such detrimental influence be determined to exist, and should it be impossible to eliminate them through coercive measures by the State Police, accommodations are to be found for the children with families who are politically and ideologically above reproach * * *."

Stuckart had the jurisdiction over the racial register and questions relating to eligibility for citizenship, and signed numerous decrees which constituted the basis for the imposition of citizenship and deportation of those who were found unqualified.

I now turn to the defendant Lutz Schwerin von Krosigk.

The French King Louis XII once asked his Field Marshal Trivulzio what kind of armaments and supplies he required for the conquest of the city of Milan. Trivulzio tersely replied, "We need three things—money, money, and more money." Throughout the era of the Third Reich from its birth, through its conquest, and up to its final collapse—the purse strings of the Third Reich were entrusted to the defendant Schwerin von Krosigk, Hitler's Finance Minister from 1933 to 1945.

Schwerin von Krosigk well knew that, in order to organize Germany into a military machine for aggressive war, the concentration of absolute power in the hands of the State was imperative. As a member of the cabinet at the time of Hitler's accession to power, his signature appears on the Enabling Act of 1933, which abolished democratic government and transferred legislative power to the cabinet. He signed the law depriving labor of its bargaining power and rights and the decrees which consolidated all power in Hitler after Hindenburg's death.

In recognition of the important part played by finance in war mobilization, Schwerin von Krosigk was made a member of the Reich Defense Council. He participated in the promulgation and enactment of the secret Reich Defense Law of September 1938, and was a member of the Reich Defense Commission described by Goering as "an important section of the preparation for war." In these capacities and as Reich Minister for Finance, Schwerin von Krosigk directed the financial mobilization of the German Reich for aggression through financial measures which insured the financing of Germany's rearmament program, employing such techniques as the floating of long and short term loans and the honoring of "Mefo bills." Naturally, he participated in many conferences where the mobilization of the German economy for aggressive war was discussed. He was, for example, present at the session of the ministerial council on 27 May 1936, when Goering exclaimed "all measures are to be considered from the standpoint of an assured waging of war." And, as Walther Funk stated in his speech of 14 October 1939 (*3324–PS, Pros. Ex. 944*):

> "One can evaluate correctly what the Four Year Plan means for the economic preparation of war only when one considers that the Four Year Plan does not include only the food and raw material economy, only the entire industrial economic life,

but that it also includes foreign commerce, money, and foreign exchange economy and finance. * * *"

Schwerin von Krosigk appeared to have been a cautious man, and at times differed with Hitler concerning the tempo at which the Nazi program should be carried out. But there is no evidence of any disagreement as to underlying purposes; on the contrary, Schwerin von Krosigk expressed full agreement with the goals which German armed might was intended to achieve. Thus, at the time of the Munich Pact, Schwerin von Krosigk advised Hitler not to start a war before Germany's strength was equal to the test and went on to point out—quoting from Schwerin von Krosigk's letter:

"We therefore can only gain by waiting. For this reason, the fanatical desire of the Communists, Jews, and Czechs is to involve us now in a war because they see in the present situation the last possibility to cause a world war out of the Czech problem and consequently the possibility to destroy the hated Third Reich. I am firmly convinced that, if Germany awaits her hour with the calmness of the strong against all provocations and completes her armaments in the meantime and especially creates a balance between the military and economic preparations which now does not exist * * * the day will not be far off when the final death thrust can be dealt to the Czechs."

Passing to the charges of war crimes and crimes against humanity, the evidence will clearly show that, from the very first restrictive measure until the receipt of the very last trinket and personal effect of Jews in the concentration camps, the Reich Finance Ministry participated in that very highly profitable enterprise of the Third Reich, anti-Semitism. In 1938, immediately after the infamous pogrom on 9 and 10 November, Schwerin von Krosigk attended the meeting presided over by Goering at which a collective fine of one billion reichsmarks was levied against the Jews of Germany—a fine to compensate for damages done, not by Jews but by "Aryan" Nazis to Jewish property. Schwerin von Krosigk took charge of collecting this fine through agents of the Ministry of Finance, and in cases where the Jews had insufficient funds to meet the fine, his agencies forced the liquidation of Jewish property to meet this brutal demand.

In the "Final Solution of the Jewish Question" we again find Schwerin von Krosigk and his Ministry in the forefront and Schwerin von Krosigk signed the infamous decree of July 1943 under which Jews were deprived of all judicial process and left at the mercy of Himmler's police. The Reich Finance Ministry was fully informed about the character of the proceeds received

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into the Reich Treasury from concentration camps, as is shown in an exchange of letters between the Finance Ministry and Oswald Pohl's WVHA, dated 24 July 1944 (*NG–4096, Pros. Ex. 2449*):

"We are here concerned with Jewish valuables, which have been credited to the Reich, namely:

Reichsmark packages,
RKK notes,
Foreign exchange in coins and notes,
Stocks, bonds, and mortgage papers, and
Ornaments and articles made of gold and silver of all kinds.

The attachment of an invoice list is not possible due to the extensive quantity. The valuables accrue from concentration camps. * * * The proceeds will be delivered to the Reich Main Treasury, credited to the Reich Finance Ministry. * * *"

Though Schwerin von Krosigk provided ingenious cloaks whenever they were desired for Germany's vast spoliation schemes, he was no more averse on principle to simple larceny than such notorious plunderers as Goering and Rosenberg. A memorandum prepared by one of Schwerin von Krosigk's subordinates in 1941 reports a scheme for division of loot agreed on between Schwerin von Krosigk and Hermann Goering as follows:

"The Foreign Exchange Protection Command France has confiscated the fortune of the Rothschilds in Paris. To the confiscated fortune belong, among other things, paintings and six large chests. The Reich Marshal has placed the paintings and five of the six large chests at the disposal of the Einsatzstab Rosenberg and has allocated one large chest for the Reich Finance Ministry for the national treasury. The Reich Marshal has, in addition, had articles taken out of the five large chests and packed in a small chest. This small chest also is allocated to the Reich Finance Ministry. The contents of both chests is not yet known. They are supposed to contain gold and jewels. The Reich Marshal has discussed the matter with the Reich Minister of Finance personally."

Through the entire era of the Third Reich, Schwerin von Krosigk never wavered in his faith in Hitler and the Nazi government. As late as 14 April 1945 we find him blindly snatching at the death of President Roosevelt as a harbinger of German victory, and writing to Joseph Goebbels that "Roosevelt's death is God's gift to Germany." Nor did Hitler ever lose faith in Schwerin von Krosigk; it need not surprise us that Schwerin von Krosigk was one of the few survivors of his original cabinet whom Hitler designated in his last will as one of his political heirs, as a result of which Schwerin von Krosigk turned up again

in the so-called Doenitz Cabinet at the end of the war.

May it please the Tribunal, Mr. Lewis of the prosecution will continue the opening statement.

MR. LEWIS: May it please this Honorable Tribunal, the prosecution continues now with individual responsibility against the defendant Otto Meissner.

As the death bells tolled for Reich President von Hindenburg in 1934, Chancellor Hitler seized the opportunity to seize Hindenburg's fallen baton and centralize all authority in his person. On this occasion, in order to clothe his rule with some appurtenances of respectability, he appointed the defendant, adviser and close confidant of both former Reich presidents, as chief of his Presidential Chancellery. The easily corrupted Meissner was to function as Hitler's sole counsellor in the many affairs that the Fuehrer in his capacity as the German sovereign was obliged to resolve. So well did he play his role that in 1937 Hitler awarded Meissner the Golden Party Badge of the NSDAP and elevated him to the position of State Minister with cabinet rank. Hitler fully realized and intended that the appointment of one of the highest ranking civil servants of the prostrate Weimar Republic to one of the foremost positions in his regime would be excellent camouflage to cloak his preparations for aggression.

Meissner participated in some of the most important conferences which were steps in Hitler's march of conquest. Meissner frequently conferred with the foreign statesmen summoned to Hitler's presence and lulled them into the belief that the pending conference was directed toward peaceful settlement of the disputed issues. He then led the lambs to the slaughter. It was he who ushered Tiso into the presence of Hitler, and he remained present when the Fuehrer laid down his ultimatum regarding the declaration of independence of Slovakia on 13 March 1939. Meissner was again present when 2 days later President Hacha was compelled to surrender the last vestiges of Czech liberty. On 7 July 1940 Meissner, Hitler, and Ribbentrop conferred with Italian Foreign Minister Ciano, and discussed prospective measures of aggression that would be required when their legions were launched against the Balkan nations. It was Meissner who in May 1941 informed the Rumanian Minister, Bossi, that Germany would reward his country with former Serbian territory for their support of Nazi aggression in the Balkans.

As chief of the Presidential Chancellery, Meissner contributed for many years to the stamping out of political opposition and the persecution of oppressed peoples at home and abroad by exercising one of the most important judicial prerogatives of a chief of state; the power to grant clemency and pardons to those

convicted by the corrupted Nazi judiciary. In this capacity he continually recommended to the Fuehrer condonation of the heinous crimes of Nazi minions. Meissner, in the exercise of Hitler's power of commutation of death sentences, actively participated in the Nazi reign of judicial terror.

The prosecution comes now to Hans Heinrich Lammers.

In years to come, historians and criminologists thumbing through the bloody pages which record the crimes committed in the name of the Third Reich will readily note the constant appearance of the bold signature of the defendant Lammers, all-powerful Reich Minister and Chief of the Reich Chancellery. Next to Hitler himself, no man held the reins of the Third Reich more tightly in his hands than did the defendant Lammers. From 1933 till the very denouement, he was Hitler's supreme legislator and the *de facto* Chancellor of Germany. His was the responsibility of coordinating all the functions of Party and State, and all matters grave enough to require the Fuehrer's attention had first to be submitted to Lammers for his consideration. It was he who resolved most affairs and served as the bridge between the various Reich supreme authorities and their exalted leader. His sweeping powers were clearly defined from the earliest days:

"* * * to inform the Fuehrer * * * about the current questions of policy and to prepare the directives."

It is of the utmost significance that throughout the years Lammers enjoyed Hitler's complete confidence and trust.

Hitler placed upon Lammers' shoulders his own mantle of authority and never once during their infamous association was it torn away, for Hitler always considered him his most loyal partner in crime and spoke of him as "* * * my excellent collaborator and counsellor." So great was his reliance upon Lammers that Hitler required that Lammers examine and cosign all his decrees and directives before they became Nazi law. In no other instance did the Fuehrer delegate so much of his dictatorial power to any one man, and as a consequence thereof, Lammers was deeply involved in a responsible manner for almost every criminal policy and program formulated and executed by the Third Reich.

When the firmly entrenched Nazi dictatorship commenced its planning and preparation for world mastery, Hitler immediately turned to Lammers, as one of his most reliable co-conspirators, to provide the legislation and synchronization required for the total war that he envisaged. Lammers signed the laws appointing Hitler Supreme Commander of the Armed Forces and creating the Reich Defense Council and the Ministerial Council for Defense of the Reich. As a cabinet minister, and through his representa-

tion on the General Council of the Four Year Plan, he actively participated in the military, economic, agricultural, and political mobilization for aggression. He was constantly called upon by the supreme Reich authorities to resolve and clarify their respective jurisdictional competencies in the mobilization program, and he received regular reports from the Plenipotentiary for the Four Year Plan, and the Plenipotentiaries General for the Economy and for Administration as to the current status of their preparation for war. He signed the secret Reich Defense Law and maintained close contact with the military authorities. As Hitler's counsellor he had full knowledge of every phase of the total mobilization and kept his finger in every pie.

When Austria became the first victim yoked to the German chariot of conquest, Lammers jubilantly remarked—

> "By Divine Providence and the genius of Adolf Hitler, the Austrian dictatorship became the deliverance and salvation of the German Ostmark and the hour of birth of our glorious, beloved Greater German Reich."

As the German legions swiftly rolled over Europe, Lammers labored mightily to conceal behind a penumbra of legality the unlawful extension by conquest of the boundaries of the Reich. He signed laws and decrees which effected the incorporation of Austria, the Sudetenland, Memel, Danzig, the eastern territories (West Prussia and Poznan), Eupen, Malmedy, and Moresnet into the Greater German Reich. His legislation appointed the Reich Commissioner for the annexation of Austria, the Reich Commissioner for the Sudetenland, and affected the complete integration of these territories into the structure of the Reich.

Throughout the era of aggression, Lammers actively participated in the ruthless subjugation and maximum exploitation of the countries belligerently occupied by Germany. He rode with Hitler's triumphal procession into Prague; he signed the laws establishing the Protectorate of Bohemia and Moravia and the right of Germany to legislate therein. He penned the laws extending German administration to these hapless countries and appointing the most brutal executors of Hitler's criminal policies as their chief executives—Frank in the Government General, Seyss-Inquart in Holland, Terboven in Norway, and Rosenberg in the East. He also signed the Fuehrer decree appointing Goering the economic dictator of the conquered territories of the Soviet Union. Lammers continually coordinated and directed the criminal policies carried out during the occupation of these countries and regularly received reports of the measures of exploitation and pacification through terror adopted as the Reich waged total war.

The prosecution would be obliged to review the entire gamut of war crimes and crimes against humanity committed under the Third Reich in order to appraise accurately the enormity of Lammers' guilt. A glimpse into the character of this man is afforded by the following eulogy, which he voiced at the bier of the infamous Heydrich at Prague on 14 October 1943:

"His [Heydrich's] death will remain unforgotten in history as a shining example of self-sacrifice not only for the future of the Greater German Reich but also for Europe as a whole."

Over the years Lammers served as Hitler's alter ego in effecting and coordinating the criminal policies of nazism at home and in the occupied territories. Twenty-nine days after the outbreak of war, Lammers wrote to Himmler—

"With reference to our discussion in the Fuehrer Headquarters and in connection with my letter of 28 September of this year, I take the liberty of sending you the enclosed draft of a Fuehrer decree. Would you be good enough to comment on it?"

This decree, signed and issued by Lammers on 7 October 1939, launched the "Germanization" program by vesting Himmler with absolute authority to adopt all necessary measures for the strengthening of Germandom in Poland.

Lammers, the supreme legislator, was deeply involved in the corruption of the German judicial system, which he perverted into another weapon of Nazi terror and oppression. On 20 August [1942] he signed a Fuehrer decree which stipulated (*1964–PS, Pros. Ex. 1587*):

"A strong administration of justice is necessary for the fulfillment of the tasks of the Greater German Reich. Therefore, I commission and empower the Reich Minister of Justice to establish a National Socialist Administration of Justice and to take all necessary measures in accordance with my directives and instructions made in agreement with the Reich Minister and Chief of the Reich Chancellery and the Chief of the Party Chancellery. He can hereby deviate from any existing law."

It was Lammers who signed the decree of 4 December 1941, concerning the organization of criminal jurisdiction against Poles and Jews in the incorporated eastern territories, in which the following provisions appear (*2746–PS, Pros. Ex. 564*):

"I. The death penalty should be imposed on a Pole or Jew if he commits an act of violence against a German on account of his being of German blood.

"II. The death sentence shall be imposed in all cases where it is prescribed by the law. Moreover, in these cases where the law does not provide for the death sentence, it shall be imposed

if the offense points to particularly objectionable motives or is particularly grave for other reasons; the death sentence may also be passed upon juvenile offenders."

Lammers' persecution of the Jew dated back to the earliest days of nazism. He was represented through his deputy, State Secretary Kritzinger, at the infamous interdepartmental conference (*NG–2586, Pros. Ex. 1544*) on 20 January 1942 which resolved to achieve the "final solution" by the mass extermination of 11 million European Jews. Lammers continually urged the supreme Reich authorities to hasten this solution, and on 5 July 1942 with the following remark he closed his letter informing them of Hitler's appointment of Rosenberg as his commissioner for the spiritual fight against Jews and Free Masons in the occupied territories (*PS–154, Pros. Ex. 1546*):

"I inform you of this order of the Fuehrer and ask you to help Reich Leader Rosenberg with the accomplishment of his task."

The opportunity to snuff out the existence of even a single Jew was a matter important enough to command the attention of the exalted rulers of Germany. In a letter on 25 October 1941 to the Reich Minister of Justice, Lammers issued the following death warrant to the Jewish prisoner Luftgas (*NG–287, Pros. Ex. 1843*):

"The Fuehrer wishes that Luftgas be sentenced to death. May I ask you to instigate urgently the necessary steps and to notify me about the measures taken."

Lammers was one of the pivotal figures in the slave labor program, and his influence was consistently exercised in the direction of the strongest execution of the measures employed. He cosigned the decree (*PS–1666, Pros. Ex. 2189*) of 21 March 1942, appointing Sauckel the Plenipotentiary General for the Allocation of Labor and directing him to employ all necessary means to tap the manpower of the occupied territories. He served as the final arbiter at major slave labor conferences and presided at the meeting on 11 July 1944 at which the supreme Reich labor authorities explored with Sauckel the possibility of adopting even more drastic measures to spur the alarmingly flagging current manhunting drives.

Lammers was active, too, in the plundering and stripping of the occupied countries to bolster the German war economy and attended many conferences at which even more ruthless exploitation of the territories was resolved. He signed many decrees authorizing the confiscation of property of those deemed enemies of the Reich in these territories and on 29 June 1941 extended

the operation of the Four Year Plan to the East by decreeing (*NG–1280, Pros. Ex. 529*):

"In the newly occupied eastern territories (U.S.S.R.), Reich Marshal Goering * * * orders all measures * * * which are necessary to achieve the best utilization of existing supplies and economical resources for the German war economy."

Lammers assumed a prominent role in the looting of art and cultural treasures from the occupied countries stating "for various reasons it is necessary to seize all objects of artistic value and historic importance." And it was Lammers who wrote to Bormann on 20 July 1938 that:

"I should like to recommend that the art treasures * * * be stored in Vienna * * * so that it will not look as if they are being definitely taken away from Austria."

I am now coming to the SS.

The defendants Berger and Schellenberg—the first a lieutenant general and the second a brigadier general in the SS—found full scope for their talents in areas where activities of the SS and the government proper were most closely fused and where the politics and the programs of the Third Reich, murderous in nature from the beginning, reached their natural fulfillment.

From 1940 to the close of the war Berger headed one of the main departments of the SS—the SS Main Office. One of the four divisions of the SS Main Office was Office Group D, more commonly known as the Germanic Directorate. The functions of the Directorate in furtherance of its goal were threefold. First, prior to the invasion of a country it served as an agency of the fifth column; second, at the time of the invasion of a specific territory, indigenous SS units fostered and developed by Berger's Directorate served as a spearhead of aggression rising up in arms against their native country and assisting the German troops; third, an additional function of this Directorate was to "Germanize" the occupied area even to the extent of securing additional manpower for the Waffen SS.

In advance of the invasion of Czechoslovakia, Berger, as liaison officer between Henlein, leader of the Sudeten German Free Corps, and the Reich Leader SS Himmler, trained and armed this Free Corps on German soil. He issued orders which determined the deployment of the Free Corps in the event of an invasion, with full knowledge that the skeleton of the Free Corps was composed of German SS, SA and NSKK men. Three weeks after the invasion of Poland, Berger was busily engaged in organizing so-called self defense units of forces indigenous to the newly occupied eastern territories. Three days after the invasion of Holland, Berger established contact with the Dutch

Nazi leaders in Duesseldorf which led to Hitler's order of 25 May 1940 setting up a Dutch Special Duty Regiment "Westland." Immediately after the invasion of Belgium, Berger became president of Devalag, a pro-Nazi political party in Belgium under German sponsorship. He employed this party primarily to recruit for the Germanic SS, and for other purposes in furtherance of aggressive warfare. Six months before the invasion of Yugoslavia, Berger wrote Himmler that he had succeeded in bringing the German racial group in that country under the SS. Furthermore, 3 days before the invasion, on 3 April 1941, he wrote to Himmler the following (*NO–5615, Pros. Ex. 1119*):

> "Everything will be prepared in such a way that if the political situation demands it, the racial group will turn to the Fuehrer by way of the Reich Leader SS."

From time to time throughout the presentation of the Berger case, allusion will be made to "SS Volunteers." It is possible that, particularly at the start of the war, some foreign SS recruits were volunteers. As the war progressed, however, forceful means were constantly used. For example, an SS order promulgated in Latvia on 7 February 1944 stated (*NO–2804, Pros. Ex. 3301*):

> "In execution of the order of 1 February of this year of the Inspector General of the Latvian Legion and the Command of the Police Chief of Riga County * * * I summon you to appear * * * for enrollment in the Latvian SS Volunteer Legion. Non-appearance is punishable according to the laws for wartime."

In connection with his activities as the Chief of the Political Directing Staff of the Ministry for the Occupied Eastern Territories, Berger distinguished himself in the conscription not only of men for the SS, but of mere boys and girls to serve as slave laborers and SS auxiliaries. In the "Heu-Aktion," a code name for the enslavement of 50,000 children between the ages of 10 and 14, we will find that Berger originally proposed this program to Rosenberg, and participated as outlined in a memorandum dated 14 June 1944 (*NO–2016, Pros. Ex. 3388*):

> "The lieutenant general [Berger] has consented that the matter of the 'Heu-Aktion' be again brought to the attention of the Minister, for the purpose of obtaining a reversal of his decision. This was done today. The Minister consents that the 'Heu-Aktion' be carried out in the army areas under the conditions agreed with Army Group Center."

Berger's heavy responsibility in this fantastic enslavement of mere children appears even more clearly from a letter which he wrote to Nickel, Chief of the Youth Branch of his Political

Directing Staff dated 26 June 1944, wherein he stated (*NO–1877, Pros. Ex. 3387*):

"* * * racially suitable boys of 12 years and older, if they are particularly good types then perhaps already from 10 years on, are to be transferred from the territories White Ruthenia, Northern Ukraine as quickly as possible. Important task set by Fuehrer. Carry out preparatory discussions now. Final discussion after my return from Hungary."

Another example of Berger's fanatical contribution to the genocidal policy of the Third Reich is found in his letter of rejection of a proposal for maternity welfare for eastern female laborers. Berger said:

"Until the war is over and we have a clear picture of the territory and the population, *no* protection of motherhood."

Needless to say Berger's participation in the Jewish persecutions followed the same pattern. On the strength of a recommendation by Berger, 25,000 Slovakian Jews were liquidated in the gas chambers at Auschwitz, and he was active generally in ensuring the zealous performance of their "ideological duties" by SS and affiliated groups engaged in the wholesale murder of Jews.

Berger's participation in the crimes against prisoners of war arises out of the position he held from October 1944 to the close of the war as Chief of Prisoner of War Affairs. It was on Berger's suggestion that the French General Mesny was selected as a victim of murder. Thus Kaltenbrunner wrote Himmler on 30 December 1944 (*NG–037, Pros. Ex. 1249*):

"In the meantime, it has been learned that the name of the man in question has been mentioned in the course of various long distance calls between the Fuehrer Headquarters and the Chief of PW Affairs; therefore the Chief of PW Affairs now proposes the use of another man with the same qualifications. I agree with this and propose that the choice be left to the Chief of Prisoner of War Affairs."

The prosecution comes now to the defendant Walter Schellenberg.

The defendant Schellenberg was chief of a small section of the Reich Security Main Office (RSHA) when the war broke out. During the course of the war his SS career was phenomenally successful, and he rose to become Chief of the entire Foreign Intelligence Service of the Reich, a general, and a close confidant of Heinrich Himmler.

One of Schellenberg's major achievements in Himmler's secret service was the fabrication of a plausible pretext for the invasion of the Low Countries in the spring of 1940. The concoction of

plausible excuses for aggressive war was one of the chief methods by which the German Foreign Office sought to provide justification in the eyes of the world for acts of aggression. The exploit here in question—the so-called "Venlo Affair"—was accomplished by Schellenberg pursuant to a secret understanding between the German Foreign Office and the SD providing for various illegal activities, in the interest of German foreign policy, to be carried out by the SD. This agreement is described in a Foreign Office memorandum of 9 August 1940 (*NG–2316, Pros. Ex. 1147*):

> "Apart from those members of the SD who are working permanently in foreign countries and through whose observations and reports all political events of the last years were prepared in order and in line with the form prescribed by the Reich Foreign Minister, there are special task forces at the disposal of the SD for carrying out illegal operations. Members of the SD, according to orders, partly prepared and partly carried out the following measures in the field of foreign policy: Preparations for the annexation of Austria. Disintegration of Czechoslovakia. Tiso's call for assistance. Preparation of the war against Poland. The Venlo Affair which created a basis of international law for the measures against the Netherlands."

The details of the so-called "Venlo Affair" are as follows: On 9 November 1939 two British officers, Stevens and Best, together with a Dutch officer, were lured to Venlo, a Dutch village near the Dutch-German border, to a rendezvous with Schellenberg and his subordinates. There they were seized and hurried across the border into Gestapo headquarters for questioning. The statements allegedly made by the victims of this kidnaping during the course of an intensive questioning were later used to justify the invasion of Holland as evidence of that country's violation of its neutrality. These statements were also exhibited in propaganda directives by the defendant Dietrich, to extenuate the "protective" seizure of the Low Countries as a measure designed to anticipate the aggressive ambitions of England. Best and Stevens languished in concentration camps in Germany until their eventual liberation by the Allies in the spring of 1945.

The participation of Schellenberg was even more significant in the preparation for the attack against the Soviet Union, and in the development of the program for the extermination of European Jews. As a close associate of Himmler and Heydrich, Schellenberg was well aware of the development of the so-called Final Solution of the Jewish Question." Indeed, he himself in May 1941 directed that Jews should not be allowed to migrate from France and Belgium "in view of the final solution of the

Jewish question which is sure to come." And Schellenberg was the actual draftsman of the agreement between the German Army and the SS, under which the Einsatzgruppen were permitted to accompany the German Army to the Eastern Front for the purpose of slaughtering all Jews found in the occupied Soviet territory. As Schellenberg himself has related, he was highly successful in persuading the German Army to lend full support to the Einsatzgruppen.

The prosecution comes now to the Foreign Office.

In returning to the group of defendants who held high rank in the German Foreign Office, we will deal first with the defendant Bohle, whose activities are of a nature distinct from those of the other Foreign Office defendants.

The world-wide web of Nazi foreign intrigue was spun in Berlin by the defendant Bohle, who from the earliest days of nazism guided the destinies of the Foreign Organization of the NSDAP, the notorious Auslandsorganisation, commonly known as the "AO". This organization was the birthplace of those Nazi fifth columns that festered within the countries marked for conquest.

The AO was a vast, centralized organization entrusted with responsibility for all Nazi Party activities outside of Germany. Bohle, as a Gauleiter and a lieutenant general in the SS, was one of the most important pillars of the Party, and he demanded that all German citizens and racial Germans residing abroad should actively espouse and secretly promote the cause of nazism. German citizens living in foreign countries were recruited by AO agents into the ranks of the NSDAP by propaganda, terrorism and duress, and were forcibly obligated under AO supervision to participate in the furtherance of Nazi schemes to undermine the sovereignty of those countries. Thus, Bohle obtained the allegiance, often involuntary, of Germans abroad to the Nazi cause of aggression.

The AO, dedicated as it was to the domination and destruction of the countries it operated in, was compelled to camouflage its activities, and every available subterfuge was employed to conceal the character of AO agents. From 1937 to 1941, the chief years of German aggression, Hitler cloaked the AO with diplomatic immunity by giving Bohle the additional status of State Secretary and Chief of the AO in the German Foreign Office. Bohle was thus able to cooperate more closely with the diplomats of aggression in effecting German foreign policy. Secret AO agents in the guise of diplomatic officials were attached to the German legations abroad, and behind this diplomatic façade were

able to intensify their unlawful activities without fear of detection.

Bohle spearheaded the Nazi fifth column activities in those countries earmarked for destruction. AO agents maintained constant contact with subversive elements, kept inquisitional discipline over German citizens, and established many dummy organizations to conceal the illegal nature of their work. In the prelude to the aggression against Austria, Bohle maintained, supported, and rigidly enforced Party discipline within the outlawed Austrian NSDAP, attached his agents to the German Legation in Vienna, and utilized the "League of German Nationals" and the "Fatherland Front" for his nefarious purposes. He honeycombed this hapless country with his agents, and through economic pressure, intimidation and violence, created such chaos and turmoil that it fell an easy prey to nazism. In Czechoslovakia, Bohle threw his vast organization into the Sudeten question, and the AO was the central force in provoking the "incidents" against German racial minorities which Hitler used as his justification for the annexation of the Sudetenland. In country after country, the AO was the vanguard of nazism, and its fifth columns, with telling effect, prepared the way for conquest.

Bohle's direction of Nazi economic activities abroad, in close cooperation with the Four Year Plan, was an important adjunct of the Third Reich's economic mobilization for aggression. Long before the outbreak of war, Bohle created a special Economic Division, headed by his deputy, Alfred Hess (brother of Rudolf Hess), to develop economic connections in foreign countries in the interest of German economic war preparations. German firms and merchants abroad were organized by AO agents and directed to provide the maximum economic support for Germany.

Nazi business representatives received AO approval and fulfilled special economic tasks before being sent abroad, and in South America special economic units were engaged in undercover operations to secure vitally needed raw materials for German war preparations.

Propaganda, too, was a potent weapon in Bohle's arsenal of aggression, and the AO's special propaganda section issued an unending stream of Nazi lies to convert German citizens, ethnic German groups, and the nationals of other countries to the German creed of conquest. In many speeches, Bohle himself urged Germans residing abroad to unite with their compatriots, the Nazis of the Third Reich. In the Balkans and the South American Republics, the AO through the medium of propaganda, enlisted many adherents to the German plans for world domina-

tion, and in the United States, the AO secretly furnished the German-American Bund with much of its venomous ammunition.

The AO was a natural vehicle for the espionage required to complete the Third Reich's preparations for war. Bohle's Berlin office was the focal point through which information concerning the military, economic, and political life of the world was received, analyzed and channeled to various Reich authorities, including Hitler and the military. Bohle directed the espionage phase of the AO's activities in close collaboration with the Abwehr, the military intelligence branch of the Wehrmacht which, in fact, established a special spy group within the AO. Reports were forwarded via diplomatic couriers directly to the Abwehr liaison officer in the German Foreign Office, who was nominally an AO official.

The AO was also widely engaged in the commission of crimes against humanity and war crimes. From 1933 onwards, the AO, as the long arm of the NSDAP, directed the systematic persecution of German nationals of Jewish extraction residing abroad. In furtherance of Hitler's campaign of hatred, Bohle ordered the AO to institute economic boycotts of the businesses of German Jews in foreign countries and to effect forcibly the "Aryanization" of German firms outside the Reich. The AO participated in blocking the funds and seizing the properties of these unfortunate German citizens and Bohle even participated in measures to forestall their emigration to havens of refuge. During the war years, Bohle extended these measures of systematic persecution to include Jewish nationals of other countries that were occupied or controlled by Germany. The AO intensified its incessant, inflammatory anti-Semitic propaganda, participated in the spoliation, ill-treatment and deportation of European Jewry, and otherwise hastened "the final solution."

With the Court's permission General Taylor will now resume.

GENERAL TAYLOR: In outlining the crimes against peace charged under the indictment in counts one and two, we have already sketched the charges in this respect against the group of top Foreign Office officials with which we are now once more concerned. The defendant Steengracht von Moyland was not charged under counts one and two. Von Ribbentrop brought him into the Foreign Office as a personal assistant, and in 1943, when the defendant von Weizsaecker became German Ambassador to the Vatican, Steengracht von Moyland succeeded von Weizsaecker as State Secretary.

While the emphasis heretofore has been on the participation of the Foreign Office defendants in the planning and initiating of invasions and aggressive wars, it must not be thought that

their responsibility for war crimes and crimes against humanity is not equally grave. This participation took a variety of forms but in general it may be said that their culpable acts were of two general types. First, as the representatives of the German Government to other governments and to the world at large, they were continually active in concealing the criminal policies and programs which the German Government had embarked upon, parrying and evading inquiries made from time to time by the several protecting powers, and in general putting up a false front of respectability to camouflage the hideous crimes which were being committed throughout the countries and territories occupied by Germany. Second, a number of countries within the orbit of German dominion were not formally annexed into the Reich or brought under outright military control, but were permitted to retain "governments" of their own. Thus, there was the Vichy government in France, the various puppet regimes in such countries as Greece and Croatia, and the thoroughly cowed and controlled governments of the Axis satellite powers, such as Hungary and Rumania. Paying lip service to the normal independence of these governments, the Germans conducted relations with them, and dispatched their orders through diplomatic representatives. Through these representatives, the German Foreign Office brought pressure to bear on these dominated countries to fall in line with German politics and practices, and most notably, with German anti-Semitism. Indeed, it may be thought by some that it was in spreading the murderous Jewish program of the Third Reich beyond the borders of Germany proper that German diplomacy reached its nadir.

In the war crimes committed against combatants and prisoners of war set forth in count three of the indictment, the German Foreign Office was constantly concerned in order to conceal their commission. Thus, when uniformed British Commando troops were captured and slaughtered in Norway and the Swiss Legation made inquiries, the defendant Ritter, with the approval of von Weizsaecker and the cooperation of the German armed forces, concocted the mendacious reply that the soldiers had been killed in combat. Similarly, with respect to the murder of the fifty British Royal Air Force officers who escaped from Stalag Luft III, the defendants Steengracht von Moyland and Ritter sent utterly false explanations in reply to the Swiss inquiries.

In the directives encouraging the German civilian population to lynch Allied fliers, the Foreign Office was even more deeply involved. Late in May the defendant Dietrich had started an all-out campaign in the German press to incite the population against the aviators, and early in June the whole question of the

wisdom of such a policy was under discussion in various agencies of the Reich government. Two weeks later, the defendant Ritter drafted the views of the Foreign Office on the matter, stating that:

"In spite of the obvious objections founded on international law and foreign policy, the Foreign Office is basically in agreement with the proposed measures."

Nor was the Foreign Office any stranger to the murder of the French prisoner of war, General Mesny, in January 1945. A memorandum signed by Counsellor von Thadden in November 1944, and submitted through Ritter to Steengracht von Moyland, tells us (*NG–037, Pros. Ex. 1249*):

"* * * the preparations concerning the French General have been concluded so far that a report about the intended action will be submitted to the Reich Leader SS within the next few days. * * *

"The order will be carried out during the automobile drive by either of the following methods:

1. Shooting on escape.

   On the way, the car will stop at a suitable spot, while the other two cars will continue the journey. The General will be killed while trying to escape, 'by well-aimed bullets, fired from behind.' Examination of the body, also an eventual later post-mortem, will confirm that the General was fatally hit while attempting to escape.

2. Poisoning by carbon monoxide gas.

   For this a specially built car, which has already been constructed, is required. The General will sit by himself on the back seat. The doors will be locked to prevent him from jumping out during the drive. The windows will be closed, owing to the cold winter weather. * * * Through a special apparatus, controlled from the front seat, odorless carbon monoxide gas will be introduced into the inner compartment during the drive. A couple of breaths will suffice to ensure his death. * * *"

We have previously mentioned the barbaric custom which was put into effect in German occupied territory of taking hostages from the civilian population and shooting them at fantastically high and arbitrarily fixed ratios in reprisal for attacks on German personnel. Some of the field marshals and generals who put into action this murderous program are currently on trial before Tribunal V. This criminal practice, as much as any other came to the attention of the world during the course of the war and aroused universal condemnation.

France, Denmark, and Yugoslavia, where Foreign Office Pleni-

potentiaries were the key German officials, suffered particularly heavily, and their puppet governments were persuaded to condone the unlawful imprisonments, deportations, and murders resulting from these inhumane methods of pacification through terror. Foreign Office representatives were customarily consulted before hostages were taken or executed; their recommendations as to the types of hostages to be selected were frequently decisive.

Von Weizsaecker emphatically put his stamp of approval on these mass killings when, after the Chilean Government had diplomatically interceded with references to the shooting of French hostages, he cabled German missions abroad in October 1941 that (*NG–4001, Pros. Ex. 1465*):

"We cannot agree that foreign governments, out of mistaken humanity, take diplomatic steps which imply an improper criticism of our measures based on military necessity. Such steps are critical of the violent measures taken by us on the basis of military necessity, and from a propaganda point of view, work to our disadvantage. That they cannot have any effect on our decisions may be taken for granted. It is therefore highly undesirable that foreign governments should continue to concern themselves with the matter of hostages, or that they make this question the subject of diplomatic negotiations with us."

During the last phases of the war, German reprisals became even more brutal. State Secretary Steengracht von Moyland, on 23 May 1944, directed Abetz, Reich Plenipotentiary in France, to take further reprisal measures against Frenchmen. The ensuing discussion between Abetz and Steengracht von Moyland, as reported in a memorandum by the latter, is a horrible case study in organized terror. I quote (*NG–3307, Pros. Ex. 1482*):

"Regarding the question as to how Ambassador Abetz could assert that there were no dissident leaders available for execution, Ambassador Abetz expressed himself as follows: Following instructions from the Reich Foreign Minister, about 50,000 French people, either suspected or accused of dissident intrigues, had been arrested and transferred to the custody of the Security Service (SD). These people were either in the SD transit camp at Compiégne or in SD camps in the western Gaue, as far down as Silesia. Apart from these 50,000 persons, a large number of prominent people were in preventive custody —not, however, on grounds of proved dissident activities—and they were likewise held, as privileged prisoners, by the SD. Under these circumstances, there were no suspect persons whatever still at large in France. For this reason, Ambassador

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Abetz had stated that no dissident leaders were available. Of course, the SD could hand over notable personages to the French Government without any difficulty, and those persons could be shot by way of reprisals. However, these persons would then be out of German hands.

"I pointed out to Ambassador Abetz that it was not important where the people came from, but who executed them. They had to be executed exclusively by the French authorities.

"Ambassador Abetz agreed. The instruction that the reprisals must be made by the French authorities arrived—Abetz continued—during the three weeks in April when Ambassador Abetz was absent from Paris. After his return, he had heard complaints from various quarters that the French Government had not taken sufficiently severe action and had, for reprisals, used ordinary prisoners who would have been executed in any case.

"He consequently called Darnand [French Minister of Interior] to account, who was very indignant at seeing his reprisals reduced to insignificance. Darnand stated that the 5 officers executed for Christofino had been personal friends of his, former regimental comrades of the 27th Alpine [Alpenjaeger] battalion, who would normally have had to expect custody only. Only someone who had had to deal with such a situation in a similar manner could realize what effort it had required on his part to order these executions.

* * * * * * *

"Among the high-class prisoners [Edelhaeftlinge], Blum, Mandel, and Reynaud were most prominent; it was only on this account that he had mentioned their names. Should there not be any other privileged prisoners either, Ambassador Abetz suggested shooting Negre, Chalveron and some of the remaining "operators" [Drahtzieher] of the Super-Nap-Organization, immediately after interrogation, and to keep others in reserve by way of reprisals * * *."

Steengracht von Moyland continually advocated that the most representative measures be adopted to stamp out any resistance to the crumbling German occupation. On 27 July 1944 he received a report from Best, the German Minister and Reich Plenipotentiary in Denmark, making the following suggestions, among others, for crushing the Danish resistance movement (*NG–4880, Pros. Ex. 1500*):

1. Reprisal murder and sabotage against people who have connections with the underground.

2. Apprehended members of the resistance movement to be forced by all means to disclose accomplices, organizations, etc.

3. Transfer of condemned prisoners to the Reich according to the "Nacht und Nebel" program.

On 30 July Steengracht von Moyland in a memorandum stated that he considered Best's suggestions useful. He further mentioned that he called him to Berlin and reprimanded him and informed him that "he should not be soft. Only the strongest measures were appropriate."

The persecution of the Christian churches, clergy, and religious orders of Germany, which had been denounced by Pope Pius XI in his encyclical of 14 March 1937, was greatly intensified as German power spread beyond the borders of the Reich to Austria, Czechoslovakia, Poland, France, and elsewhere. Particularly in Poland, atrocities against the church aroused the greatest indignation. The truth of the reports of many of those atrocities was so patent that even accomplished prevaricators like von Weizsaecker found it impossible to deny them when the Apostolic Nuncio made inquiries or protests. In this most awkward dilemma, the German Foreign Office, in 1942, adopted the delightfully simple solution of limiting its diplomatic relations with the Vatican to matters concerning the territory of Germany as of 1933, excluding all the subsequently acquired and occupied territory. From that time on, von Weizsaecker and Woermann repeatedly refused to acknowledge any inquiries or complaints from the Nuncio affecting people or conditions outside of Germany proper. Thus, early in March 1943, Cardinal Maglione, the State Secretary of the Vatican, submitted to von Weizsaecker a long 28-page communication describing in detail the confiscations and atrocities committed against the church in the Polish district of Wartheland, particularizing, that of six bishops in the district, only one remained, and that of over two thousand priests, only a very few were left. Many had been shot, taken to concentration camps, or driven out. In Poznan, there were only four priests to take care of some 200,000 Catholics.

In a secret note to von Ribbentrop, von Weizsaecker reported that he had summoned the Nuncio in order to return to him Cardinal Maglione's memorandum. Von Weizsaecker reminded the Nuncio that he had already instructed him on the policy of the Reich government to limit its relations with the church to matters concerning the old Reich. He refused to so much as give a written acknowledgment that the document had been delivered to the Foreign Office, "on the grounds that this would give the semblance of an official act." The Nuncio was left no alternative but to accept.

Finally, we turn once more to the darkest chapter in the history

of crimes against humanity. When the synagogues were burned and thousands of Jews thrown into concentration camps early in November 1938, Woermann participated in the Goering conference of 12 November 1938 which laid the groundwork for the expropriation of the Jews in Germany. He represented his superior, the defendant von Weizsaecker, who himself was at that time delivering a speech in Paris at the funeral of von Rath, in which von Weizsaecker expressed his concurrence with the Jewish persecution by giving voice to the anti-Jewish battle cry "Germany, awake!"

On 25 January 1939 the Foreign Office in an official note to all its diplomatic and consular representatives in the world, laid down its policy of persecution which had been duly weighed and considered by the defendants von Weizsaecker, Woermann, Keppler, and Bohle. This comprehensive memorandum stressed the following points:

"* * * The policy on the Jews was both condition and consequence for the events of the year 1938. * * *"

Speaking about the migration of Jews, the memorandum said:

"* * * the poorer, and therefore more burdensome, the emigrating Jew is to the country of immigration, the stronger the reaction of the country receiving him will be, and all the more desirable will be the effect in the interest of German propaganda. The goal of German action shall be a future international solution of the Jewish question dictated not by false compassion for the 'Jewish minority that has been driven out' but by the mature knowledge of all people of what a danger Jewry is to the national-racial existence of the nation."

The IMT, in its judgment on von Ribbentrop, has already found that the German Foreign Office played an important part in the "Final Solution of the Jewish Question." The interdepartmental conference of 20 January 1942, at which the general plan for the extermination of European Jewry was outlined, was attended by von Weizsaecker's subordinate, Under State Secretary Luther. In carrying out the agreements made at that conference, the Foreign Office, first under the State Secretaryship of von Weizsaecker and from 1943 on under that of Steengracht von Moyland, had much to do. Coordination with the RSHA and manifold diplomatic steps were necessary in order to press the often hesitant satellite governments into complicity in the murder program. But let us look into the records of the Foreign Office, where in an office memorandum of 21 August 1942, signed by Under State Secretary Luther, a number of the milestones already reached are set forth (*NG–2586–J, Pros. Ex. 1455*):

"* * * In the conference on 20 January 1942, I demanded

that all questions concerned with countries outside Germany must first have the agreement of the Foreign Office, a demand to which SS Major General Heydrich agreed and also has faithfully complied with, for the office of the Reichssicherheitshauptamt (Reich Security Main Office) handling Jewish matters has from the beginning carried out all measures in frictionless cooperation with the Foreign Office. * * *"

The pressure exerted by the German Foreign Office on the puppet government of Slovakia can be seen from the following quotation from the same memorandum:

"* * * In the meantime, 52,000 Jews have been removed from Slovakia. Due to church influence and the corruption of individual officials, 35,000 Jews have received a special legitimation. However, Minister President Tuka wants the Jewish removal continued, and therefore has asked for support through diplomatic pressure by the Reich. The Ambassador is authorized to give this diplomatic help in that he may state to State President Dr. Tiso that the exclusion of the 35,000 Jews is a surprise in Germany, the more so since the cooperation of Slovakia up to now in the Jewish problem has been highly appreciated here. This instruction has been cosigned by the Under State Secretary in charge of the Political Division, and the State Secretary."

It may be noted that the State Secretary and the Under State Secretary mentioned were von Weizsaecker, and Woermann. In fact, at the time of this memorandum, von Weizsaecker, Woermann, and von Erdmannsdorff had already signed a number of communications to German envoys in foreign countries and to the RSHA, ordering and authorizing the departure, from country after country, of death transports to the East. On 20 March 1942 for example, von Weizsaecker and Woermann informed Eichmann, the RSHA official in charge of Jewish extermination, that there were no objections on the part of the German Foreign Office to the deportation of 6,000 French and stateless Jews to Auschwitz.

Signature after signature on these mass death warrants and bureaucratic mortician preparations followed.

Von Weizsaecker, Steengracht von Moyland, Woermann, Ritter, and von Erdmannsdorff worked at headquarters; Veesenmayer in the field, especially in Yugoslavia and Hungary. "Quick and draconic settling of the Jewish question in Serbia is the most urgent and expedient necessity," Veesenmayer reported on 10 December 1941 from Yugoslavia to the Foreign Office. Two and one half years later, on 23 April 1944, Veesenmayer reported

happily from Budapest to Ritter that "* * * starting 15 May * * * 3,000 Jews will be sent weekly to Auschwitz." *NG–2233, Pros. Ex.*

Steengracht von Moyland himself was kept constantly informed on progress in the field in the deporting of Jews to the eastern death camps. He further supported the policy of prohibiting the occasional emigration of Jewish children and other persons from Hungary to Palestine. On 7 July 1944 he participated in holding up the evacuation to Switzerland of thousands of Jewish children until "* * * the end of this month, when the action against the Jews in Hungary will be concluded for the most important part, and then the intervention will have become pointless."

In conclusion, if it please Your Honors, the obviously wide scope of the subject matter of this case has made it quite impossible to set forth the evidence in any detail within the compass of this presentation. We have sought only to outline the charges and touch on a few points in the proof. And the same limitations of time and space rule out any full analysis of the legal matters which the defense will, no doubt, suggest in due course.

As to the legal basis for count four of the indictment, we wish merely to make two preliminary observations. First, and contrary to what will undoubtedly be urged upon the Tribunal by the defense, the IMT did not hold that all acts prior to 1939 were outside the scope of crimes against humanity as defined in the London Charter. It held only that as to many crimes committed before 1939, it had not been satisfactorily proved in that case that they had been committed in execution of or in connection with crimes against peace or war crimes. The IMT's conclusion is very carefully worded—

> "The Tribunal therefore cannot make a general declaration that the acts before 1939 were Crimes against Humanity within the meaning of the Charter. * * *"[1]

The judgment of the IMT, therefore, leaves it entirely open to the prosecution here to prove that some or all of the crimes charged in count four of the indictment were committed in execution of or in connection with crimes against peace or war crimes.

Second, the prosecution firmly adheres to its position, previously stated on several occasions,[2] that crimes against humanity are a well recognized concept in international penal law, and that they are quite independent of war crimes and crimes against peace. The language in the London Charter which led the IMT to limit crimes against humanity so strictly that they appear to

[1] Trial of the Major War Criminals, *op. cit.*, volume I, page 254.
[2] See opening statement in Case No. 5, United States *vs.* Friedrich Flick, et al., volume VI, this series.

be only a category of war crimes, is not to be found in [Control Council] Law No. 10. It violates, we submit, all accepted canons of statutory construction to assume that the omission was meaningless or inadvertent. Tribunal IV, in its recent judgment in Case No. 5, we respectfully submit, overlooked several important circumstances and considerations in concluding that [Control Council] Law No. 10 does not cover crimes against humanity committed prior to 1939. Furthermore, we believe that the prosecution's position on this question finds full support in the judgment of Military Tribunal III in Case No. 3.*

No doubt, on this and other matters, the Tribunal will wish to receive written briefs and hear oral argument at a later date. These legal questions will be of importance in formulating the judgment on certain portions of this case, and they are of enormous significance in the determination and statement of international penal law.

Quite apart from the field of legal theory the prosecution humbly suggests that we all have much to learn from this case. From the scope of this observation, we by no means exclude the defendants themselves. In the world of Kantian absolutes, the wrongdoer must be made to realize his own wrongdoing so completely that he affirmatively desires his own punishment. The prosecution will surely be pardoned a measure of pessimism in this regard. No doubt we will be told in this case, as in others, that it is other men—certainly no one in this dock—who are responsible for all these acts which we have charged as crimes and it is even possible that some of the defendants will dispute the basic premise that any of these acts are, in fact, criminal.

But if it would be a mistake to overestimate the possibility that the documents which these defendants wrote or caused to have written will bring home to them any feeling of guilt, we may perhaps set greater store by the effect of this proceeding itself. The defendants have lived for fifteen years in a world where facts are not facts unless they are acknowledged and proclaimed to be such by properly authorized persons. They have lived in a world where crime is not crime unless the parties are arranged in proper order; the every existence of a Jew was intrinsically criminal, but any act, however murderous, by a German against a Jew, was eminently meritorious. Again, I do not know whether any of the defendants ever visited a court of the Third Reich, but if they did, they had no opportunity thereby to hear the law or witness the judicial process. It will, we hope, be beneficial to the defendants to be exposed now to the process of ascertaining

* United States *vs.* Josef Altstoetter, et al., volume III, this series.

facts for their own sake, and to a world of more normal moral values than they have been accustomed.

This is a court of law and not a seminar, and our task here is to determine guilt or innocence under law. But there is often more to be learned in the courtroom than in the classroom, and this case is full of lessons—hard and unlovely lessons. From the defendants Keppler, Bohle, and others we can learn how to instigate wars by playing upon a nation's weakness, setting one racial group against another, stirring up religious jealousies, and by a wealth of other means. From the defendants Dietrich, Darré, and Stuckart we can learn how to incite to murderous hatred and violence, and how to teach men to hold themselves in contempt. From the defendants von Weizsaecker and Steengracht von Moyland we can learn how to practice diplomacy on the basis that truth and honor have no legitimate place therein, and how to conduct international affairs on the premise that moral standards have no application thereto. It is highly important that we learn and understand how all these things are done, so that we can recognize and cope with other practitioners of these arts, should we encounter them in future years, at home or abroad.

A most important lesson which we will be able to read on almost every page of the record in this case is that, in time of political and moral stress, men of culture and education and apparent respectability may succumb to criminality nearly or quite as readily as others against whom suspicion might more naturally arise. It is one of the saddest lessons of the history of the Third Reich that criminal conduct spread far outside the ranks of the convinced Party members. Whether from ambition or fear or insensitivity, numerous highly placed and respectable men joined in criminal program. For example, it is easy to believe that the defendant Darré sincerely believed the Jew to be the source of all evil and thought the "final solution" the only valid solution of the Jewish question. It is hard to believe that career Foreign Office officials such as von Weizsaecker fell victim to such superstitions. And yet, in the actual execution of the Jewish extermination program, the German Foreign Office played a far more important part than Darré. Cold indifference to death is often more repellent than murderous fanaticism. One is reminded of the callous impatience of Lessing's Prince of Guastalla: (Lessing, Emilia Galotti, 7th scene)

> "A death sentence to sign? Why, gladly. Only hurry, get out of here."

But the most important lesson of this case is none of these things. The cancer of the Third Reich, spreading crime throughout the political organism and ultimately mortal, was the sup-

pression of truth. And it is the supernal mendacity of these defendants which is most revolting. The spectacle of von Weizsaecker shamelessly assuring the French Ambassador that the Czechs had voluntarily entrusted themselves to Hitler's protection is matched by that of Dietrich pouring lies, lies, and more lies into every bit of German reading matter. The terrible effect of all this on Germany and on the world must not escape unnoticed, for it is a timely lesson. His Holiness, Pope Pius XII, in his last Christmas message, has spoken on this subject in words that should leave an imprint on the minds of men everywhere—

"The brand on the brow of our time and the source of its disruption and decadence is the tendency, every day more obvious, to 'insincerity' and lack of honesty. And this is not merely as an occasional expedience, or a contrivance to save one from embarrassment in moments of unexpected difficulty or of obstacles unforeseen. No. Today it amounts practically to a system. It has been raised to the distinction of a strategy, in which the lie, the garbled word or fact, and trickery have come to be accepted weapons of offense, which some people wield with the skill of professionals, boasting even of their competence.

"So clearly, as they view it, has the suppression of all sense of right and wrong come to be part and parcel of modern techniques in the art of forming public opinion, of controlling it and of making it serve their political ends. For they are bent on winning at any cost the battle of class interests and theories, of ideologies and power politics.

"We do not propose to describe here in detail the havoc wrought by this tournament of 'insincerity' in public life. But we are in duty bound to open the eyes of Catholics all over the world —and of all others besides who share our faith in Christ and a transcendent God—to the dangers which this prevalence of falsehood presents for the church and Christian civilization and, for the entire religious and even merely human heritage which has supplied the peoples of the world with the substance of their spiritual life and of their real greatness for the past two thousand years.

"When Herod of old was plotting anxiously to slay the Babe of Bethlehem, he hid his plan under a pious mask and tried his best to make the honest Magi into unwitting spies. Likewise today, his modern imitators move heaven and earth to conceal their real purpose from the masses, and make them the unconscious instruments of their designs.

"But once they have won power and feel the reins securely in their hands, little by little they let fall the veil, and pass

by successive stages from oppression of the dignity and liberty of man to abolition of all authentic and independent religious life.

"Here, then, is the question we put to all honest men: How is humanity to recover, how can any 'new order' worthy of the name emerge from the mistakes and agitation of this present hour of confusion, if the lines which mark off friend from foe, yes from no, and faith from lack of faith are to be erased and moved about?"

To this profound and moving statement we may not add. In this case we will see the harm done to a great nation and to the world by lies. The authors of the word did not believe what they themselves spoke, and their object was to deceive and delude. Such a way of life is a fatal handicap to any nation, whatever its goal may be, and this lesson no nation can afford to disregard.

Your Honor, that concludes the opening statement.

PRESIDING JUDGE CHRISTIANSON: Is the Tribunal correct in assuming that the prosecution is ready to begin the presentation of its evidence tomorrow morning?

GENERAL TAYLOR: Yes, Your Honor. We are prepared.

PRESIDING JUDGE CHRISTIANSON: The Tribunal therefore will recess until tomorrow morning at 9:30.

C. Opening Statement for Defendant Von Weizsaecker*

MR. MAGEE (co-counsel for defendant von Weizsaecker): May it please Your Honors. Counsel for Ernst von Weizsaecker approach the task of presenting to this Tribunal and to the world the true facts and circumstances surrounding the conduct of von Weizsaecker during the critical years referred to in the indictment, in a feeling of grave responsibility. A great misconception has arisen concerning the activities of the State Secretary and last Ambassador to the Holy See and certain of his colleagues in the old Foreign Office.

General Taylor declared in his opening statement that the defendants from the German Foreign Office stood at the top level of the diplomatic roll of dishonor and that German diplomats would have to labor under suspicion and distrust for decades to come. When the first trial was held at Nuernberg, it was directed against National Socialist war criminals. Since the Nuernberg trials lost their international character, in effect one after another of the leading strata of the German people were indicted.

* Transcript pages 7218–7236, 3 June 1948. Extracts from the closing statement for defendant von Weizsaecker are reproduced in section XIII, Volume XIV. The final statement of defendant von Weizsaecker to the Tribunal appears in section XIV, volume XIV.

The prosecution turned the bright light of notoriety involved in a major charge of war criminality, first upon the doctors, then the industrialists, and then the generals. Now, as a finale, diplomats are put in this blinding light and are indicted as planners and participants in wars of aggression and in so-called war crimes. In ordinary criminal proceedings, the basic question usually is: Who personally instigated or who personally executed and assisted in the perpetration of the crime involved? This principle seems to have been abandoned by the prosecution at Nuernberg, and the question now seems to be: Who knew of a crime and did not oppose it? This extension of the theory of participation gives the prosecution the possibility of indicting practically everybody in Germany. Apart from this, the prosecution seems to direct its attack not upon the individual guilt of the various defendants involved, but seeks to establish the guilt of an entire group such as German industry, the German generals, German officialdom and German diplomacy, and treats these groups as if they were major war criminals. It was no coincidence that the prosecution at the beginning of this trial caused to be published, in facsimile, a confession of alleged collective guilt of German officialdom. This action on the part of the prosecution was done as a part of a common plan to incriminate various representative groups of Germany on the thesis of collective guilt and thus establish the guilt of all German people—a thesis which the International Military Tribunal at Nuernberg officially repudiated.

Within the framework of these trials, no indictment caused so much surprise and consternation, not only in Germany but throughout the world, as the indictment of von Weizsaecker. Both the German public and the public generally outside of Germany knew the former State Secretary von Weizsaecker as a statesman of peace and as a natural opponent of the Hitler regime and its war policies. That is why, since his return from the Vatican to Germany, von Weizsaecker lived in undisturbed freedom with the consent of both the French and American occupational authorities until shortly before the beginning of this trial. As an example of the protest and surprise arising out of his arrest, Dr. Oeri, member of the Swiss National Council, one of Europe's leading publicists, accused the prosecution at Nuernberg of unjustified man-hunting. We will show, by evidence adduced before this Tribunal, that the bringing of the indictment was, at the very least, unjustified and was the result of a serious political misunderstanding.

As a practical matter, the prosecution should have relied, insofar as its case against von Weizsaecker is concerned, exclusively

upon diplomatic documents—that is, diplomatic documents of any other nations, so that a complete factual situation might be put before this Tribunal. Instead, the prosecution has engaged a large staff which has worked for over 2 years on German documents alone. In addition, for over a year and a half the prosecution has interrogated nearly all German personalities with whom von Weizsaecker had been in contact during the last 10 years. Also the prosecution contacted and questioned numerous personalities abroad who knew von Weizsaecker and were in a position to give evidence on his political and diplomatic activities. Notwithstanding these vast investigative procedures, the prosecution so far has not produced evidence from or the testimony of a single German witness, or from any witness abroad, to prove von Weizsaecker's guilt. As our evidence will disclose, the reason for this failure on the part of the prosecution to produce such evidence is that that evidence confirms the unceasing and nerve-racking efforts of von Weizsaecker to preserve peace and to prevent persecutions and excesses, in contradiction to the picture the prosecution attempts to draw from the documents. Time and again, the defense, in answer to questions at home and abroad, was told—"But we have told all that to the prosecution. The Tribunal must certainly be informed!"

It appears that the prosecution has worked with the documents of the Foreign Office without diplomatic advisers, with the possible exception of Herr Gaus.* Under these circumstances, it is understandable that they have not comprehended the real meaning and motives behind these documents. A diplomatic document cannot be understood without expert interpretation, and without a full knowledge of the historical and political facts of the time that a document was written. A diplomatic document expresses a concrete, tactical situation and can only be explained when this situation is known and understood. Diplomatic documents very often, as the evidence will show, do not contain the really decisive matter which the document is written to actually effect. Essential parts of a diplomatic conversation, for instance, are often omitted from documents and memoranda in order not to endanger the true objectives involved. Understanding of diplomatic documents is rendered more difficult where the documents emanate from a totalitarian regime. In a totalitarian state, such as Hitler's Germany, diplomatic documents are drawn up with two fronts in view; one involving one's own government, and the other the foreign country or countries. Per-

* Friedrich Gaus, formerly chief of the Legal Division of the German Foreign Office, appeared as a prosecution witness and was frequently consulted by the prosecution in the preparation and trial of the Ministries Case. An affidavit of Gaus (*NG–3945, Pros. Ex. 254*) and extracts from his testimony are reproduced hereinafter in section VI G.

sons who have not lived under a dictatorship readily become the victims of grotesque misunderstandings when reading diplomatic documents of the Third Reich. For instance, misinterpretation easily occurs when reading a diplomatic document prepared for Hitler and von Ribbentrop which advises against war, the reason being, as our evidence will show, that under a dictatorship, arguments directed against war must be couched in warlike language if they are to have any effect or to be given any consideration at all. We will adduce proof that life in a dictatorship creates the necessity of using language which has a double meaning and which needs specific interpretation. When the documents are examined in the light of the evidence, it will be discovered that a large part of the documents produced by the prosecution are in fact defense documents. The unreal paper world of documents presented by the prosecution will be confronted by evidence establishing the actual political realities of the critical years before and after the outbreak of World War II. This evidence will come not only from German sources, but from numerous prominent personalities, including diplomats and politicians from abroad.

Our evidence will show that political conditions under the Hitler dictatorship diminish the value of documentary evidence, and that the true actuality will have to be established by evidence from personal sources and sources other than the diplomatic documents of the Third Reich alone. It will show that no one under the Hitler regime could reasonably risk putting his real political activities on paper, unless, of course, he was an unconditional follower of Hitler and national socialism. In spite of this obvious fact, we will produce documentary evidence which will support the personal testimony to be adduced by us during the trial.

With respect to documentary evidence from the files of the Third Reich, unfortunately the defense is in a difficult situation. Such documents as will be produced had to be chosen more or less at random because sufficient time was not granted the defense to work through the voluminous material located in the Berlin Document Center. In this connection, I am referring to the motion filed by us on 22 March 1945. As the Tribunal knows, we were obliged to have 100,000 pounds of files containing an estimated 2,000,000 documents examined by a single representative who has had only two and a half months for this purpose. As the Tribunal knows, representatives of the United States have denied the defendants the right to have additional representatives

in the Document Center. Therefore, only a superficial selection of documents was possible.*

With reference to the document situation, the prosecutors have stated that documents speak for themselves. Their significance as evidence material, however, can only be understood by a description of the concrete situation which existed at the time they were drafted. Our evidence will show that while documents speak, their language is but rarely understood.

But, above all, we believe that the man himself is the key to the documents, and not the documents to the man. The evidence in our case will show the real von Weizsaecker, a Christian, an honest diplomat, and a true patriot.

Ernst von Weizsaecker comes from an old Wuerttemberg Protestant family which for generations has produced famous scientists and high state officials. His grandfather was a well-known theologian, and Evangelical Germany received from his hand the most important German Bible translation since Luther. His father was the last Minister President of the Kingdom of Wuerttemberg. A southern, Christian, and conservative tradition reigns in this family.

Ernst von Weizsaecker is married to the daughter of the Adjutant General of the last King of Wuerttemberg. There were four children. The eldest son, together with Heisenberg and Hahn, belongs to the best known of German atomic scientists and is today a professor at Goettingen University. The second son was killed in the Polish campaign. The third son, Richard, fought through the Russian campaign and is now acting as my assistant in the defense of his father.

Von Weizsaecker's personality and activities will be the subject of the defense evidence. While the indictment accuses von Weizsaecker of having prepared aggressive wars, as next in command under von Ribbentrop, and of having participated in numerous crimes against humanity, we will prove the contrary.

Five document books will be presented by us which will give a comprehensive picture of von Weizsaecker's efforts to maintain peace. This evidence will show how von Weizsaecker meticulously, unceasingly, and under circumstances which would try an ordinary man's soul, made use of every peace move or opportunity in order to preserve world peace. Our evidence will show numerous efforts made by him, under circumstances of grave personal danger, not only to himself but to his family, of timely and alarming warnings to foreign powers in order that they might take appropriate steps to prevent the outbreak of another

* The matter of making documents and witnesses available to the defense came up frequently during the trial. It is discussed early in the Tribunal's judgment, section XV, volume XIV.

world war. We propose to produce evidence from informed representatives of unquestioned integrity of numerous foreign powers, including powers that were at war with Germany during the critical years. Among those who will present evidence on behalf of the defendant von Weizsaecker are the former British Foreign Secretary, Lord Halifax, other members of His Britannic Majesty's Government, the former State Secretary General of the United States Disarmament Delegation and Counsellor of the American Embassy at Berlin, F. L. Mayer, the French Ambassador Gérède, the President of the Swiss Confederacy, Etter, the Swedish Minister Richert, the Swiss Minister Froelicher, the Irish Minister Kiernan, and many personalities of first importance in international affairs. A most interesting and important source of valuable material which has been kindly put at the disposal of the defense is the hitherto unpublished secret diary (*Weizsaecker document 169, Weizsaecker Ex. 4*) of the former League of Nations High Commissioner in Danzig, President of the International Red Cross, and at present Swiss Minister to Paris, the Honorable Karl J. Burckhardt. In addition to this, we will also produce evidence from the collaborators of von Weizsaecker in and out of the German Foreign Office. Evidence will also be adduced from important American sources, including documents published by the State and War Departments. In addition, pertinent extracts from non-German publications bearing upon the period in question will be submitted and will establish von Weizsaecker's activities for peace. I shall mention only a few: The British Ambassador Sir Nevile Henderson's "Failure of a Mission", Under Secretary of State the Honorable Sumner Welles' "The Time for Decision", the Italian diplomat Luciolli's "Mussolini e L'Europa", and Count Ciano's Diaries. Moreover, evidence will be adduced which will consist of documents discovered in certain files of the German Foreign Office and of the French Ministry of Foreign Affairs. In this connection, the Tribunal must of course appreciate that we are unable to present other diplomatic documents from Allied sources because, under the rules of secrecy now surrounding international diplomacy, particularly of the Allied countries, these documents are not accessible to us and are preserved in secrecy. This situation casts a grave handicap upon the defense, as it is quite apparent that many documents exist in the files of the Allied nations which would be of great help to this defendant in bringing the true facts before this Tribunal.

Death has rendered difficult the preparation and presentation of von Weizsaecker's defense to the Tribunal, as the partners in this momentous struggle to preserve peace, British Ambassador

Sir Nevile Henderson, Italian Ambassador Attolico and the American Ambassador Hugh Wilson are deceased. Insofar as it is within our power to do, we will endeavor to prove, by evidence concerning these personalities, that they were the confidants and collaborators of von Weizsaecker in his stuggle to avert war. This noble and important task of a diplomat, namely the fight for peace and the prevention of war, was von Weizsaecker's true motive for continuing in office under Hitler. Our evidence will show that he struggled unceasingly and earnestly to mobilize all counterforces against the growing danger of war which he observed with grave apprehensions. This battle, our evidence will disclose, was necessarily connected with resistance against Hitler. In 1938 von Weizsaecker's efforts to maintain peace had been crowned with success; the war was averted in the Sudeten crisis. When, in spite of all the efforts of von Weizsaecker and his collaborators to preserve peace, the catastrophe was let loose upon the world in 1939, resistance work in Germany assumed foremost importance; von Weizsaecker knew that peace could be regained only through the removal of Hitler from power. We want to make one point clear as to von Weizsaecker's resistance efforts: As a German and a man who loves his Fatherland, he never wanted the destruction of his country. We will show that it was this very love for his country that obliged von Weizsaecker to fight for peace and to resist Hitler.

One of our document books deals specifically with von Weizsaecker's work in the resistance movement against Hitler. In assembling this evidence, the defense faced a great difficulty. Death had again eliminated most of the outstanding figures involved in the German resistance movement. They were executed after 20 July 1944. In preparing this evidence and presenting it to the Tribunal, we have exercised particular care to assemble all available evidence from recognized members and relatives of recognized members of the resistance movement, as we are well aware of the general inclination of many personalities in Germany to state now that they were members of this resistance movement. Our evidence will show the special character of von Weizsaecker's resistance work. In addition to affidavits from those who survived the executions after 20 July 1944, we will produce one of the most important survivors as a witness before this Tribunal.

It will be shown that resistance under dictatorship is not easy to understand, especially by persons who have not lived in a dictatorship. To an American, understanding of this problem comes gradually after great study. We Americans who have grown up in the life and thought of a democracy at first believe

that to bring about the fall of a dictatorship, you need but to speak your opposition. We at first believe that opposition should take the form of emigration or the abstaining from all political activity. Persons who do not emigrate or persons who do not withdraw into a purely private life—which incidentally, is nonexistent in a dictatorship—seem compromised to us. On reflection and study, however, the realities of the situation will show that the emigrant and the person who refrains from all participation in government under a dictatorship, deprive themselves of all means of efficiently fighting against it. The emigrant and the man who retires to a life of seclusion can only suffer and discuss —they cannot act. These men make no effective contribution to the overthrow of a dictatorship. They lose that contact with the dictator's intentions and activities and his methods of control and government which is indispensable for any effective resistance; they will form no group available for reconstruction in the future, should the dictator be overthrown. As strange as it may seem to those who have not lived in a dictatorship, there can be no effective resistance without an apparent measure of cooperation.

Resistance through feigned cooperation ultimately is the tragic task of a qualified person under a dictatorship. This fact is difficult to understand because, in practically all instances, it is necessary to cover up real motives; in addition, real motives must not be confused with personal opportunism. The men in Germany who from the beginning trod the dangerous path of resistance through feigned cooperation, underwent a two-fold Calvary of suffering. In addition to the mortal risks involved in their activities, they had to run the risk of being misunderstood even by persons who held ideas similar to their own. After suffering through heartbreaking periods before and during the war, today this man stands indicted before this Tribunal for having caused the very things which, with the highest of motives and with all the energies he possessed, he bravely fought to prevent and for which he sacrificed himself. How unbearable this situation is, can hardly be appreciated by those who have not so lived and fought. This situation should make clear to the Tribunal what I meant earlier in this statement when I said that the prosecution was the victim of a political misunderstanding.

Our evidence will show that instead of being a National Socialist war criminal, von Weizsaecker was a man who, with every fibre of his being, opposed the Hitler regime. Resistance in a dictatorship is a game of assigned roles. Von Weizsaecker was not the bomb-thrower. His task in this resistance movement consisted, above all, of continuously informing the members of the

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resistance of actual facts abroad and the true situation of German foreign policy. It was with a certain cheerfulness that we, as counsel for von Weizsaecker, have followed the strenuous efforts of the prosecution to prove von Weizsaecker's early knowledge of aggressive intentions. The obvious fact of the situation is, and will be shown by our evidence, that without a general knowledge of aggressive intentions, von Weizsaecker's activities to preserve peace and to resist Hitler would have been senseless. However, as our evidence will show, this knowledge generally did not come through von Ribbentrop, who deliberately kept many things from the State Secretary. Much of von Weizsaecker's information came from the military leaders of the resistance movement, above all from the Chief of Counter-Intelligence, Admiral Canaris. From these sources he obtained knowledge of the intentions of the leaders of national socialism. With this knowledge at his disposal, von Weizsaecker then took appropriate steps to put countermeasures into action in an effort to prevent in time a situation which might mean war. A further task of von Weizsaecker's, within the resistance movement, consisted of the assignment of important posts abroad to men who would work for resistance. He also helped those men and others to travel and to make secret contacts abroad. After war came, he persisted in his efforts to prevent the spreading of war and to secure an early peace in order to prevent untold suffering and misery for millions of people. Time and time again, on the basis of information received by him from abroad, von Weizsaecker communicated with the high-ranking military leaders in Germany and insisted that peace with Hitler was impossible and that it was necessary for these military leaders to take action and to remove Hitler from power. Von Weizsaecker believed and stated that the military were the only ones who could effectively act and overthrow Hitler. Only by active cooperation among men of these beliefs in political key positions could the resistance movement achieve its aim. This fact was known to many of the leaders of the resistance movement and that is why they attached such decisive importance to von Weizsaecker's remaining in office.

The maintenance of peace, and later, the regaining of peace; resistance, in order to overcome the Hitler regime; secret activities to prevent excesses and to aid the oppressed—these were the aims of von Weizsaecker's conduct of affairs. For these reasons he remained in the diplomatic service. As early as 1933, our evidence will show, the last great statesman of the Weimar Republic, former Reich Chancellor Dr. Heinrich Bruening, advised von Weizsaecker to stay in office. Dr. Bruening's affidavit opens the document book entitled "Motives for Remaining in Office".

It was only for the purpose of effectuating these aims that von Weizsaecker made the sacrifice of accepting the office of State Secretary under Hitler. He recognized the great danger overshadowing Germany. He would not take the easy way out and emigrate, or resign himself to fireside chats. As a patriotic German, he felt that he must carry on this fight against Hitler in a post which gave him some chance of achieving effective results. As a part of our defense, we will show the various and devious ways in which he used this office to reach this goal and will also explain in this connection how the documents submitted by the prosecution came into existence.

Ernst von Weizsaecker is a Christian. He was bitterly opposed to Hitler's excesses and his policies of persecution directed against the Catholic Church, the Evangelical Church, and the Jews. Von Weizsaecker seized every opportunity to help the persecuted. In secrecy he collaborated with the Papal Nuncio Orsenigo in all decisive matters. This collaboration was carried on in violation of restrictive instructions of Hitler and von Ribbentrop. This will be shown by evidence from an important collaborator of the deceased Nuncio. In addition, leading Catholic personalities will give evidence concerning the far reaching aid and assistance which von Weizsaecker gave to the persecuted church, its members, and others, including Jews. Also, for the first time in the history of the Nuernberg trials, an official statement will be made from the Vatican concerning the activities of a defendant in opposition to the policies and persecutions of national socialism. This evidence among other things, will show that Ambassador von Weizsaecker assisted His Holiness, the Pope, in saving Rome from destruction through military actions. When the true facts are known, the Christian world will then know that von Weizsaecker's efforts in a large measure saved for the world the Eternal City of Rome, the Vatican, and its glorious and sacred monuments. Other cities in Italy containing Catholic, cultural and historical monuments were also saved from destruction through von Weizsaecker's efforts. Persecuted people, including emigrees, many of whom were Jews, living in Rome and its environs, were furnished protection by Ambassador von Weizsaecker, and were thus saved from death and persecution.

In the Evangelical sector, we will produce evidence from leading representatives of the German Confessional Church, the services of which von Weizsaecker attended openly. In addition to this, there will be evidence from representatives of the World Council of Churches in Geneva, among them the Secretary General of the World Council, the Dutch citizen Visser't Hooft, and the head of the Norwegian resistance movement, Bishop Berg-

grav. Evidence will also be submitted from representatives of the International Committee of the Red Cross. Special relief actions by these organizations for persecuted peoples of all creeds were made possible by von Weizsaecker. These activities will be described in our evidence and will be shown to be in opposition to the policies of his superiors. Von Weizsaecker's main work in favor of the persecuted was dedicated to the paving of the way for these great international organizations to aid the persecuted in Europe.

From among von Weizsaecker's individual actions in favor of Jews, evidence will be adduced from the world's leading atomic scientist, Niels Bohr.* The Dutch citizen de Marens Oyens will give evidence of the activities of von Weizsaecker and the saving of the Jewish members of the renowned Amsterdam Concertgebouw Orchestra. Evidence will be submitted from the Secretary of the Catholic Relief Organization for Jews, "St. Raphael", in Rome, which organization, with the assistance of von Weizsaecker, was able to accomplish its task of saving Jewish fugitives by aiding them to emigrate. Testimony from numerous other sources will be adduced to show that instead of being a participant and a planner of crimes against humanity von Weizsaecker was a real humanitarian and used every power at his command to aid persecuted people and to prevent persecution.

He who, like State Secretary von Weizsaecker, earnestly wishes to work for resistance in dictatorship, must for appearance's sake, adapt himself to the dictator's language and clothing. That is how von Weizsaecker came to receive the uniform of the SS on his appointment as State Secretary. Our evidence will show that Himmler and von Ribbentrop appointed diplomats to the SS in order that their civilian clothes would not disturb the picture of Hitler's uniformed Berlin. Our evidence will show that von Weizsaecker performed no duties in the SS and took no action whatever to effect its policies and purposes. Von Weizsaecker's real aims in becoming State Secretary were to preserve peace and to resist Hitler and his mad policy; he could not refuse an honorary appointment to the SS since this held open the only chance he had to carry out his secret aims. We have been following with some amusement the attempts of the prosecution to reproach State Secretary von Weizsaecker for National Socialist utterances. In reality, von Weizsaecker could be reproached because he did not put on more of the appearance of a National Socialist and make more such utterances for public consumption, because, as the evidence will show, his real attitude became known to Hitler and von Ribbentrop to a certain degree, and this

* Professor of Atomic Physics at University of Copenhagen, Denmark.

curtailed his influence. It is quite obvious, and the evidence will show, that less suspicion would have fallen upon the State Secretary had he comported himself more as a National Socialist. Von Weizsaecker's efforts to achieve peace without Hitler ultimately became known to von Ribbentrop, and our evidence will show that had von Weizsaecker been in Germany when this discovery was made, he would have had to stand trial before the People's Court after 20 July 1944. We will prove that von Weizsaecker would not have outlived a victory by Hitler.

In order to camouflage his actual political motives and activities, State Secretary von Weizsaecker of course had to initial many documents which came through the Foreign Office, thereby giving the semblance of consent to matters over which he had no influence, but which continued to strengthen his active resistance against the whole policy. Opposition against such matters, if it had come forth openly from the Foreign Office, would not have altered the ultimate result, but, on the other hand, would have resulted in the complete exclusion of the State Secretary and ended his activities in the field of resistance against Hitler. The State Secretary persisted in the diplomatic service because he wanted to contribute opposition to the National Socialist system from its very center. It is a matter of common knowledge that for Jews, peace without Hitler was their only salvation. State Secretary von Weizsaecker could work for this purpose only by remaining in office. Had he been a private citizen or returned to the life of a private citizen, his activity in this field would have been nonsensical. Our evidence will show that the so-called knowledge and so-called consent imputed to initials and signatures is not the kind of knowledge and consent mentioned and defined in Control Council Law No. 10, when it is borne in mind that this "knowledge and consent" were but means to fight Hitler.

In all cases, wherever it was possible, the evidence will show, the State Secretary exhausted to the very last all of his possibilities to mitigate and alleviate measures which he could not prevent. The opposition of the State Secretary to these matters had to be carried out in a subtle way. Illustration of these methods of opposition to alleviate and protect against excesses of national socialism will be demonstrated in the evidence.

A real knowledge of the activities of this defendant, coupled with a knowledge of life in the Hitler dictatorship, will require a complete reconsideration and reevaluation of all documents produced by the prosecution. After the evidence has made obvious von Weizsaecker's real political aims and has established the real activities in which he engaged, the documents which seem to contain charges against him will be understood and, in fact, will es-

tablish his complete innocence of the charges contained in the indictment. It is true, as our evidence will show, that the great tragedy of this situation is that final success in the battle for peace and for the removal of the Hitler regime was denied this defendant. But, in passing judgment upon von Weizsaecker, the decisive fact, in our opinion, seems to be that the fight was actually waged. We do not believe that this Tribunal will condemn him because he chose to fight for his principles and did not leave Germany. Defeat in this great fight is not the test of the guilt of the crimes charged in the indictment.

In his opening statement, General Taylor concluded with a quotation from the Christmas message of His Holiness, Pope Pius XII. Baron von Weizsaecker had the fortune to be near His Holiness and to assist him as the last German Ambassador to the Vatican, when in Berlin he could no longer effectuate his diplomatic aims as State Secretary, the entire world being either conquered by Germany or at war with her.

Von Weizsaecker has been reproached that he should have recognized the hopelessness of his struggle and resigned from office. We submit that the ultimate reasons why efforts should be continued at all times to preserve peace and to prevent crimes against humanity which result from war, are best illustrated by a statement of Pope Pius XII in his appeal shortly before the outbreak of the war, in which he emphasized that efforts against war should never be given up. His Holiness then said—and I quote his exact words: "Nothing is lost with peace; everything can be lost with war." This demonstrates how justified Baron von Weizsaecker was to try as an active diplomat, rather than as an emigree or a person in private life, to achieve his aims and objectives until the very last moment and never to give up the struggle until the bitter end.

From the evidence we will submit, showing the whole course of von Weizsaecker's policies, we feel satisfied that not only will the innocence of this defendant concerning the charges in the indictment be proved, but that the evidence will establish that the world owes a debt of undying gratitude to this defendant for his great fight for peace and humanity in the most trying time in the history of mankind.

D. Opening Statement for Defendant Steengracht Von Moyland*

DR. HAENSEL (counsel for defendant Steengracht von Moyland): The Nuernberg trials have raised a storm of discussion throughout the entire world. Defenders, critics, and attackers of the trials have all raised their voices. The important periodicals which concern themselves with international and criminal law have published numerous articles by renowned writers. To mention all this literature alone would take the entire time allotted to me for my opening statement. I do not therefore wish to attempt to quote this or that author, or to refer to any one argument. I should like to refer to one aspect which is not to be found in these writings, which are based on theory and not on the legal practice of Nuernberg itself. Since the plenary session of 9 July 1947 the judgments handed down at Nuernberg have been based on the point of view that these military tribunals, though consisting of American judges, are international tribunals. "The Tribunal administers international law."

Here at Nuernberg an event is taking place, the significance of which we cannot perhaps yet evaluate properly—the meeting of the Anglo-Saxon and Continental concepts of law, and that in the most intensive form of legal practice—in criminal proceedings.

Even if the roles are unequal, insofar as American judges pass judgment on German defendants according to international law, the fact still remains that these are court proceedings in which the defendants and their attorneys are given the opportunity to state the facts and to offer a legal interpretation of them. The pronouncement of a sentence by the judges is not an arbitrary act, but claims to consider the arguments presented, to sustain or reject them, and to convince, if not the defendants themselves, at least world public opinion. But that can only be achieved by a judgment which takes into consideration the basic principles which are to be found in every legal system, even if those principles have been expressed differently in the actual legal provisions.

Thus Control Council Law No. 10 is, in spite of its few regulations, a directive to the judge pronouncing international law on how he is to apply to the war crimes trials the legal principles common to all nations. In its argumentation the IMT was not satisfied with one reference to the positive regulations of Control Council Law No. 10, but based the argumentation for its decision upon the generally accepted principles which show through every

* Transcript pages 9728–9737, 23 June 1948. The final statement of defendant Steengracht von Moyland appears in section XIV, volume XIV.

article. Such proceedings, based on international law are not suited for juridical sophistry; General Taylor, the chief prosecutor, had already pointed this out on several occasions. Such law must be comprehensive, corresponding to the large territory it covers, and must be clear to every right thinking person in the world.

The first principle of all law is that of equality before the law. The judge may not give different treatment to two equally innocent or equally guilty persons, and must not punish an act in one case and condone the same act in another. Thus far, Anglo-Saxon and continental law are in agreement. But the work of man is inconsistent. It is impossible to punish every offender. It is likewise unavoidable that some offender escapes the judge who would pass a sentence on him corresponding to his guilt. It is here that the ways divide. Most continental systems have followed the example of the French and have developed a public prosecution which must prosecute every case coming to its notice and which has the monopoly of this prosecution. In most territories covered by Anglo-Saxon law, however, more is left to the initiative of the individual citizen.

International law is valid for still larger territories; the power which enforces it, however, has not yet been created for ordinary cases. It is in the process of being created, and only in that exceptional position which is Germany's at the present moment, this power actually comes into existence. I do not want to discuss this international problem and all the objections which have been raised against Nuernberg in this connection, but I want to refer only to one concrete incident which took place in this courtroom, and from which one can draw conclusions for our trial here.

Big trials have their own innate rules. Once they have begun they are out of the hands of those who got them started. Out of the work of prosecution and defense it evolved, without any stage manager arranging it purposely, that at the climax of this trial, after the prosecution had rested its case and the defense had started, the former Ambassador Friedrich Gaus* appeared in the witness stand.

I am not speaking of what Gaus said; I am only speaking of the situation which brought about his introduction. His introduction clarified the uncertain and vague formulation of [Control Council] Law No. 10 with respect to the members of the Foreign Office. A criterion, a "Gaus Standard" was introduced into the

* Friedrich Gaus was from 1923 to 1943 chief of the legal division with the title of Under State Secretary. After 1943 he was appointed Ambassador for Special Assignments, acting as a legal adviser to von Ribbentrop. A number of affidavits signed by Gaus were introduced in evidence during the prosecution's case in chief. Parts of his testimony are reproduced in section VI G. His complete testimony is recorded in the mimeographed transcript, 7 and 10 May 1948, pages 4806–4865 and 4899–5020.

trial, a gauge starting at zero, its normal position being zero, which will now show whether one or the other of the defendants is more guilty than Gaus, and thus becomes subject to punishment, or whether he is less involved in the events than Gaus, in which case there would be no possibility of sentencing him in this trial. It would be unbearable from the point of view of our idea of justice if in this very trial, which was announced to be the last one of its kind and which was expressly defined as such, a free witness who was not arrested and not indicted, were to be heard in public, who might be more guilty than the defendants who are to be judged on the basis of his testimony.

The very fact that the prosecution called Friedrich Gaus as a witness, but did not indict him, reveals that his actions and activities are not enough to condemn him. It is impossible to assume that otherwise he would have been called as a witness into this Court. In proceedings concerned with international law, the continental principle of legality has perhaps not yet been introduced, which fact forces the prosecution to indict everyone whom it deems guilty. In proceedings based on international law one must take especially into account that the prosecution's powers do not extend over large territories, and that it cannot seize everybody who violated international law. This, however, does not constitute an excuse if the offender is within reach. If all persons present and within reach of the prosecution were not measured with exactly the same yardstick, the reputation of such a legal body would suffer greatly. There is an approach to ethical problems just as there is a way of looking at material objects, by which objects appear larger if we look at them at close proximity than when they are far or even very far away. A delinquent in hiding or absent causes us annoyance, but one who is present and who is not treated like the others, offends our sense of justice. The only conclusion left is that the prosecution no longer considers Gaus guilty enough to be indicted, which means that we can apply the Gaus standard.

The most difficult problem in a new legal sphere is to find a standard. There are no precedents; the judges have no previous experience. [Control Council] Law No. 10 offers general ideas, but no clear definitions. It is not difficult to show the connection between the person shooting and the man who is killed by his shot and then to talk about a murder; to talk about incitement to murder, if another person called: "Here he is, shoot." The answer to the question, however, whether a small initial on a piece of official stationery makes the initialing person privy to the crime of depriving persons who are a thousand kilometers away of their freedom, especially if many other decisions are in-

terpolated or whether the forwarding of a document through official channels was instrumental in such a crime, is much more difficult according to paragraph 2 of Article II of [Control Council] Law No. 10. The Gaus standard saves us from having to go too far back with our defense; such forwarding and initialing alone has no such effects.

The circle around the Fuehrer is a concept which was developed during the IMT trial. In order to answer the question whether it was possible to recognize the criminality of an order, it is relevant to determine how close the person concerned was to the source from which the order was issued. Gaus was von Ribbentrop's confidant. He was almost constantly at headquarters where the political directives originated. This alone cannot be the basis for a participation as defined in [Control Council] Law No. 10. Gaus was an ambassador with a rank equal to that of the State Secretary. This rank alone does not constitute a responsibility according to international law, also not for my client, Baron Steengracht von Moyland.

If anybody knew about von Ribbentrop's intentions and measures in the field of foreign politics, it was the jurist and confidant, the man who formulated his international treaties. The mere knowledge of these goals, and the fact that someone remained in a high position despite this knowledge, does not constitute criminal responsibility according to [Control Council] Law No. 10. What is it then that has to be added in order to make such knowledge appear as criminal intention? As an act—not only as an intellectual process?

In addition to the Gaus standard, the defense also has to consider another law, which can best be explained by means of an analogy taken from the field of architecture—Steengracht von Moyland's defense is not a corner house, it is not a beginning, it is the vanishing line, while the style of the front of our house has already been determined through the other houses built before, especially the palace of von Weizsaecker, which is at the beginning of the Foreign Office block. It cannot be avoided that the defense will constantly have to follow what has been established before we started, and the logical consequence is that we will have to emphasize the differences. I will therefore have to warn against misinterpreting as contrasts, differences which have to be pointed out. The essential difference between the corner house of von Weizsaecker and our modest hut, leaning against this corner house, is the fact that von Ribbentrop kept Steengracht von Moyland away from actual politics. Whatever he could do, was done on a smaller scale, and in a more limited space. Therefore we will have to determine and to examine the

dimensions and the extent of this sphere where Steengracht von Moyland worked. Of special importance is the location of this place where Steengracht von Moyland worked, its complete separation from field quarters, where the center of power was located, where the radio towers were, transmitting Hitler's and von Ribbentrop's orders.

The outward appearance of the indictment already reveals the limitations of the case of Steengracht von Moyland.

Four of the eight counts of the indictment do not even mention Steengracht von Moyland. He is not charged with the preparation, planning and execution of wars of aggression (counts one and two), he is not charged under count four—most of which was dropped already—and he is not charged with having been a member of a criminal organization. This becomes even more impressive if one uses statistics and takes into consideration that, of the at least 100,000 documents with which Steengracht von Moyland dealt as State Secretary in the course of 2 years, hardly a dozen have been submitted here on which Steengracht von Moyland worked personally.[1] This fact gains even greater importance if, in the cause of future legal considerations, the basic problem of the Nuernberg trials, namely the Anglo-American concept of conspiracy, should be discussed. If the concept of conspiracy, which basically means responsibility for the guilt and actions of other persons, is not recognized as applicable to war crimes as such, and as applicable to crimes against humanity as defined by international law, Steengracht von Moyland's criminal responsibility would extend only to those documents with which he himself dealt, and a guilt could not be ascertained unless these documents proved his complicity or participation as defined in Article II, paragraph 2, of Control Council Law No. 10. Steengracht von Moyland's part in the documents of the prosecution is rather small from the statistical point of view; it is, however, especially interesting, if, on the other hand, one considers in how many cases—which will still have to be substantiated by evidence—he succeeded, despite his limited means, in helping people and in enabling them to escape Hitler's persecution.

I shall address the questions concerning Steengracht von Moyland's character not to himself, but, with permission of the High Tribunal, to Pastor Rocker.[2] It is rather awkward to give information about oneself, and even if it is correct; it easily could sound wrong, too loud or too low. I will then deal with the re-

[1] Steengracht von Moyland became State Secretary or Under Secretary (Staatssekretaer) in the German Foreign Office in May 1943. Trial of the Major War Criminals, op. cit., volume X, page 106.

[2] Pastor Karl Rocker was a defense witness whose testimony is recorded in the mimeographed transcript, 23 June 48, pages 9740–9751, not reproduced herein.

maining counts of the indictment in the reverse order. Count six having been dropped in the case of Steengracht von Moyland, as a result of my motion of 10 May 1948,* I shall, having discussed Steengracht von Moyland's character, his general position, his appointment as State Secretary, and his conduct while in office, then call Steengracht von Moyland to the witness stand to testify on the topic of "forced labor as a crime against humanity."

The discussions will mainly be limited to the French situation after 5 May 1943 until the collapse. Steengracht von Moyland had nothing to do with the recruitment of eastern workers. The documents which were submitted in this connection, with regard to Greek civilian prisoners and Hungarian Jews, can be dealt with very briefly.

As to count five, crimes against humanity, we will again have to start out with France. From this point on our presentation will follow the document books of the prosecution, that is, beginning with [document] book 50, in order to make work easier for the Tribunal.

With regard to Denmark, we will follow up on prosecution document book 52. Prosecution document book 62–A, dealing with the Jews in Monaco, and the same and other document books dealing with Hungary, will then be discussed. I will then deal with the other southeastern countries, prosecution document book 61. Then I shall take up the anti-Semitic propaganda contained in prosecution document book 63, and shall finish this count of

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* By an order dated 7 June 1948, the Tribunal dismissed the charges of count six as to defendant Steengracht von Moyland. This order reads as follows:

"The defendant Steengracht von Moyland moves that he be dismissed as a defendant under count six of the indictment (plunder, exploitation and spoliation of public and private property) on the ground that the evidence of the prosecution is not sufficient in law or fact.

"The prosecution contends that this defendant received reports from representatives of the German Foreign Office concerning the planning and execution of these programs and that the acts were committed under his supervision and with his knowledge. They rely upon Exhibits 2763 to 2789, document book 48, and Exhibit 2484 in document book 88. No oral testimony was offered in support of these charges against Steengracht von Moyland. The Exhibits 2763 to 2789 were all written prior to the time that Steengracht von Moyland occupied the position of State Secretary of the Foreign Office and cover a period when he was not occupying any position in which he had either supervision or control of the acts in question and there is no evidence that he had any knowledge of these documents. Prosecution Exhibit 2484 was the sixth and final report of the German Armistice Delegation for Economy and of the Delegate of the Reich Government for Economic and Financial Questions with the French Government and covered the period from 1 July 1943 to 17 August 1944. The only portion of this report which was offered in evidence recites that during the 4 years of the occupation of France, the Armistice Delegation transferred approximately 121 million reichsmarks worth of investments from French into German possession, among them shares of vital war enterprises in third countries, in France and in Germany and for details reference is made to former activity reports of the Delegation.

"There is nothing in this report to indicate that any of the transactions took place during the time when Steengracht von Moyland was State Secretary. In view of this fact, the Tribunal finds that there is no evidence before it which could sustain a finding of criminal complicity on the part of the defendant Steengracht von Moyland in regard to count six. It is therefore ordered that as to count six, the defendant Steengracht von Moyland be and he is hereby dismissed."

the indictment by discussing the church matters of prosecution document book 54.

Count three of the indictment, war crimes in the limited sense, will first necessitate a discussion of competency with respect to matters concerning prisoners of war, and a discussion of the documents contained in [document] book 38. Then I shall deal with the retaliation measures contained in the same volume. Then follows the Commando Order of [document] book 39, the shooting of Sagan fliers of [document] book 40, the Lynch Justice of [document] book 41, and the Mesny case of [document] book 42. I have arranged my document books (which contain original documents of that time and affidavits) according to this outline, as far as I was able to do so in view of the arrival of the documents and the deadline for the completion of the document books. I request permission to submit in supplementary books, documents which arrived late. During the course of the trial I will also submit some material with regard to the important and less important legal questions I want to discuss in my final plea. Following the examination of the defendant Steengracht von Moyland, I shall present several witnesses, according to the directives of the Court, either before the Tribunal or before the Commission.

The result will be the picture of a man who filled the gap in a hopeless situation. It was a great sacrifice for him; he gave up the possibility of a free and undisturbed life, which a good fairy had placed in his cradle in Moyland at the Dutch border. In his position he helped wherever and whenever he had a chance to do so. Now that the fortress which he had defended as his Fatherland has fallen, it will be our duty to help him, and to free him of the false suspicion cast upon him that he belonged to that group of persons which abused the formerly honest German name to conduct their criminal activities.

E. Opening Statement for Defendant Keppler*

DR. SCHUBERT (counsel for defendant Keppler): Your Honors, at the request of the Tribunal, the defense for defendant Wilhelm Keppler has been divided into a political-diplomatic section and an economic section. The defense will now concern itself only with Keppler's work in connection with foreign policy and the Foreign Office. My opening statement of today is also limited to this sphere.

* Delivered in two parts, the first part on 16 July 1948 (Tr. pp. 12527-12535), and the second part on 1 September 1948 (Tr. pp. 19251-19265). The reason for the division is indicated in the first paragraphs of the opening statement. Extracts from the closing statement for defendant Keppler are reproduced in section XIII, volume XIV, this series.

It will therefore be appropriate to separate first of all those counts of the indictment which will be discussed now and later on. For I have made this separation of defense points only under the assumption that section I of the defense will be completely finished now, and that, during defense section II, the prosecution will not be allowed to refer back to matters which were discussed by me during my presentation of defense section I.

Keppler is indicted under counts one, two, five, six, and eight of the indictment. Count four has been omitted, count eight (membership of a criminal organization) I shall deal with exclusively in connection with the economic section. The other four counts, on the other hand, fall under the political-diplomatic as much as under the economic section. Thus no clear division is admissible here. In the following paragraphs, I shall merely mention that part of the prosecution's material which will come under discussion in the first part of my defense.

First, as to count one of the indictment—no evidence has been produced by the prosecution of Keppler's activity, mentioned in paragraph 5, in connection with Hitler's seizure of power. It would therefore be superfluous to examine this point. On the other hand the charges brought by the prosecution in paragraphs 8, 15, 16, and 17, which concern the Austrian, Czechoslovakian and Polish cases, will be dealt with. To this extent count two of the indictment will also be included in the discussion.

Other points of the indictment which I shall examine, though not exhaustively, include—(*a*) count one, paragraphs 6 and 29, and count two, insofar as it is of interest here, and also (*b*) counts five and six.

These counts are supported, as far as Keppler's work in foreign politics and in the Foreign Office is concerned, by documents which merely came to Keppler's attention through the so-called distribution list.

The question of India, certainly not a very essential one, seems to me to present certain difficulties. It is not actually mentioned at all in the indictment. I am of the opinion that Keppler is not accused at all in that respect. All the same, I shall take the precaution of dealing with this point at the same time, insofar as it concerns Keppler's work in connection with foreign policy. Insofar as the prosecution relates the documents on the Indian question and Keppler's membership in the SS, I must return to them in the second section of my defense.

This defines the scope of the first part of my defense. Any prosecution material which is not mentioned in this first part will be dealt with in the second part.

The prosecution obviously considers Keppler's work in Austria

as one of the main counts. In this opening plea I do not want to discuss in detail the very difficult legal problems which emerge from this very case in the indictment, for such a project would far exceed the scope of this statement. I will reserve this for my final plea, and wish at this point merely to indicate a few problems, without examining them, insofar as this is necessary in order to make my statements comprehensible.

The IMT has already concerned itself with the question as to whether participation in actions which led to the annexation of Austria to the German Reich can constitute a crime against peace. The IMT described the Anschluss as merely a measure for the furtherance of the plan "to conduct wars of aggression against other countries." The IMT was influenced here by the memory of the well-known Hossbach Conference of 5 November 1937, in which Hitler disclosed his political plans to a very small circle.[1] Neither the defendant Keppler—and the prosecution was unable to produce a shadow of proof of this—nor any other defendant in this trial, belonged to this circle. To this extent the situation in this trial differs fundamentally from that of the IMT. There the heads of the government were in the defendant's dock. Here the men concerned are mostly subordinate government servants, and, in some cases, people who were not civil servants at all. Not only did the defendants in this trial have considerably less influence than those in the IMT, but, in addition, the question of knowledge of planning and preparation for war is quite different where they are concerned. The IMT statements on the Austrian affair, therefore simply cannot be turned to account for this trial. Moreover, they contain in part a considerable number of actual errors which can be completely refuted on the basis of the documentary material now at our disposal. This means that the legal validity of the IMT judgment, postulated in Article X of Ordinance No. 7 does not constitute a *fait accompli.* Moreover, this legal validity encounters, in general, several legal obstacles, for which Tribunal IV in Case No. 5[2] made allowance in that they used the IMT judgment as basic legal material, but not to the disadvantage of the defendants.

Thus I am faced with the difficult task of describing to the Tribunal how the Austrian Anschluss came about. This task is all the more difficult when it is a question of reconstructing historical facts which are not so far in the past that those who took part can, *sine ira et studio,* regard them with the detachment which is necessary for a really objective appreciation of historical events. If we wish to gain a picture which corresponds to the

[1] See "The Planning of Aggression" in the judgment of the International Military Tribunal, Trial of the Major War Criminals, op. cit., volume I, page 188.

[2] United States *vs.* Friedrich Flick, et al., volume VI, this series.

historical truth, we must forget the knowledge we have today and try to transfer our minds into the ideas and feelings of the people of those times, now 10 years past and more. We should, however, not let our view be obscured by the fact that the agreement with which the reincorporation of Austria into the German Reich was greeted in the widest circles of the Austrian people has, after the terrible events of the intervening period, changed for many Austrians into the very opposite. The prosecution material is not enough to eliminate the confusion which has thus arisen in the evaluation of the events which took place in Austria then. The documents have been submitted disconnectedly and with partiality. The two witnesses who appeared in person in this trial (Hornbostel and Miklas) are Austrians. They are most certainly both honorable men. Nevertheless, they see events from an extremely biased viewpoint and are also undoubtedly influenced by public opinion in their own country. The two other prosecution witnesses, however, who speak to us from hundreds of pages of document books in memoranda, notes, and Party speeches—of which one (Leopold) is dead, and the other (Rainer) has been condemned to death—have for their part composed their notes for definite purposes, so to speak, *ad usum delphini.* This type of writing can be used as a historical source only with the greatest circumspection. I should like to see the historian who would place any faith in such documents!

I should be failing to give a properly objective representation of the matter, particularly in the case of Austria, if I did not also give the Court a brief survey over the historical development of the relations between Austria and the Reich. Ever since the ninth century, that is to say, more than 500 years before the American continent entered into the history of mankind, Austria had belonged to the German Reich, however much the constitutional form of this membership may have changed during the course of the years. It was not until the Prusso-Austrian war of 1866 that there was a complete constitutional separation. Already 16 years later, in 1882, Germany and the Austro-Hungarian monarchy had formed an alliance and, in the First World War, both peoples fought side by side as brothers-in-arms. Nothing was more natural than that, after the dissolution of the Austro-Hungarian Empire, the little country that still bore the name of German Austria and was exclusively inhabited by Germans, should seek union with the German Reich, on the principle of the right of self-determination of the peoples declared by your President Wilson. The Peace Treaty of 1919 denied to German Austria the right of self-determination. This imperious decree certainly prevented the Anschluss for some time, but dictated decrees could not tear from the

hearts of the peoples the longing for reunion, the feeling of the two peoples of one race that they belonged together, the memory of a common history; nor could a few years of an authoritarian regime, based on a constitutional breach, as it existed in Austria from 1934-38, convince the Austrian people that it must look to Italy and not Germany for its salvation. Only when this is borne in mind can it be recognized that the events of March 1938 and the happenings that took place in Austria previous to them were not owing merely to the will and command of one single man, who, according to the findings of the IMT, harbored far-reaching plans of conquest. It seems much more likely that those who were shaping political conditions in those days believed they were doing their part towards the fulfilment of a historical mission that was to serve the good peoples and the pacification of Europe, and not engaging in the preparation or waging of a war of aggression.

PRESIDING JUDGE CHRISTIANSON: Dr. Schubert, it occurs to us that perhaps we cannot finish this without a change of film* and this seems to be a good place to break the continuity of your speech. Perhaps this would be a good place to recess. Then you can take up from here following the recess. We will now recess for 15 minutes.

THE MARSHAL: Military Tribunal IV is again in session.

PRESIDING JUDGE CHRISTIANSON: You may continue, Dr. Schubert.

DR. SCHUBERT: Thank you, Your Honor.

As Keppler's defense counsel, this perception has led me to portray to the Court, in my three document books, 2 A, B, and C, the political-historical development in Austria since 1918, and especially since 1933. Many events, which in great part were forgotten, even by us Germans, will probably have altogether escaped the knowledge of the members of this Honorable Tribunal from the other hemisphere. A documentary film, composed of newsreels of March 1938, will show how right was the Austrian Federal Chancellor, Schuschnigg, in prophesying that the march of German troops into Austria would be held up only by the ovations of the Austrian population, and how much the Anschluss coincided with the will and the conviction of the Austrian and German peoples, and therefore accorded with the idea of self-determination of nations.

So far as Keppler's own activity was concerned, I will prove that he was neither engaged before 1938 in subversive acts, nor in military measures at the time of the Anschluss; that his aim, in accordance with his instructions, was always an evolutionary

* The Presiding Judge refers to the film used in making electric sound recordings of the entire proceedings.

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development, which he endeavored to bring about by promoting pacification between the Austrian Government and the national opposition, and that, even on the night of 11 to 12 March 1938, he still wanted to prevent the entry of German troops, since the danger of bloodshed in Austria itself no longer existed.

In the case of Slovakia, also, it is indispensable that the historical development of the Slovakian struggle for independence since 1918 should be briefly described, in order to show the Honorable Tribunal what the political situation was that formed the background of Keppler's activity. His activity in Slovakia was not of the same importance as in Austria. His mission was of an informatory nature and finally ended in participation in the negotiations for a defense pact between Germany and Slovakia. It is hard to see how far these circumstances have any criminal importance at all, since Slovakia was neither the victim of an aggressive war, nor of any act of aggression. Keppler was not concerned in the march into Bohemia and Moravia, nor in the diplomatic preparation for it. At the Hacha conference of 14 and 15 March 1939, he was only an invited observer, and not an active participant. He was excluded from the subsequent separate discussions.

With the diplomatic preparations for the war against Poland, Keppler had nothing at all to do. Purely on the inquiry of von Ribbentrop, he gave a favorable opinion of his colleague Veesenmayer; this man was appointed by von Ribbentrop for certain special tasks, the object of which was not known to Keppler. It can, therefore, be seen at first glance that the charge on this point is not sufficiently substantiated. The only activity that Keppler carried out within the framework of the Foreign Office was the care of the Indian, Subhas Chandra Bose.* Even this task was at von Ribbentrop's order; it was not based on Keppler's initiative. The political concept which underlay this activity was far removed from the ground of reality. The actual results were insignificant. The Indian Legion in Germany, composed of volunteer Indians, reached at most the strength of a regiment and was not used as a combat unit. About twelve volunteer Indians were trained in the Security Police Service. No violation of the Hague Rules of Land Warfare is apparent here.

The remainder of the evidence that has been submitted against Keppler, within the framework of the charge against the Foreign Office, consists exclusively of documents which, according to the so-called distribution list, he is alleged to have received. The

* Bose was an Indian Nationalist, opposing Ghandi, who had declared his sympathy for Germany in the Second World War. He accepted an invitation to come to Germany, where he founded the so-called Indian Legion to fight against Great Britain. There was no proof that Bose and his followers engaged in actual military combat.

statements of the witnesses Albrecht, Lohmann, and von Mirbach clearly show the value that is to be placed upon this documentary evidence, namely, just none. I will, moreover, prove that a large number of documents on which Keppler's name appears in the distribution list, actually never reached his office, and that a far larger number of documents, which concern the same or similar matters, do not have Keppler's name in the distribution list at all. This proves that Keppler never had any official function in the matters concerned and that he received, quite without system, telegrams and other documents which afforded him no insight into the matters in question. How far he took any notice of them at all is not apparent. His initial, at any rate, has not been established on any prosecution document up to now. There is no evidence whatever of any consenting part in the sense of Article II [paragraph] 2 (*c*) of the Control Council Law [No. 10], especially when it is based on the interpretation given to this regulation by Military Tribunal II in Case No. 4, against Pohl and others,* and I quote:

> "There is an element of positive conduct implicit in the word 'consent.' Certainly, as used in the ordinance, it means something more than 'not dissenting'."

The prosecution does not even allege any positive attitude on the part of Keppler.

That was the whole of Keppler's political-diplomatic activity. He had no permanent office in the Foreign Office. His appointment as State Secretary was Hitler's recognition of Keppler's long and disinterested adherence. Keppler had only a title, but no office. His special assignments, with the exception of the unimportant Indian affair, were all before the war. As a number of witnesses in the IMT testified, he was not hard, not robust enough for Hitler. Keppler was no crafty diplomat, no friend of subversive activities, no fifth columnist, such as the prosecution would try to make him out. He exerted himself to carry out the tasks assigned to him with uprightness and honesty, and these qualities cannot be denied to him by those who did not share his political opinions.

Before the bar of this Honorable Tribunal there stands in Wilhelm Keppler a man who even now does not seek to hide the fact that, full of faithful idealism, as a convinced National Socialist, he placed his services at the disposal of Hitler. Never did he obtain any personal advantage from his political post. It was the greatest disappointment of his life that he had to see such an end to a Reich and to an idea for which, with his whole

* United States *vs.* Oswald Pohl, et al., case No. 4, volume V, page 1002, this series.

heart, he had disinterestedly and uprightly given his best. That is the tragedy of his life.

[Second part, delivered on 1 September 1948]

Your Honors, the second part of Keppler's defense mainly comprises his economic activity, which is partly dealt with under counts one and two, and partly under counts five and six of the indictment, furthermore, count eight, membership in criminal organizations.

Concerning Keppler's economic activity, the prosecution set forth in its opening statement (*pg. 180*) :

> "Keppler deserves to be better known to the world than he is, for his part in laying the basic economic foundation for Hitler's invasions and wars of aggression."

Thereby the prosecution overlooks that Keppler's name is by no means unknown in the world and above all in the United States. Keppler not only attracted the attention of American economic circles in his capacity as head of a plant of photochemistry in Eberbach (Baden), but also during his activity as Hitler's commissioner for economic matters and commissioner for raw materials.

For a better understanding of Keppler's economic activity during the years after 1933 it is advisable to glance at Germany's economic development after the First World War. The German Reich had suffered at that time heavy losses of territory and of economic importance. During the time before the First World War, Germany had balanced the permanent import excess in her trade balance mainly with the earnings from investments in foreign countries and in part also by means of commercial navigation. There could no longer be any question of those two factors after the war. Consequently the postwar economic development was overshadowed by the problem of lack of foreign exchange. A few years of the postwar period may have created the impression of a normal and partly thriving economic life. The growth was, however, fictitious, based on an over-abundant influx of foreign credits into Germany, most of which could no longer be repaid to the creditors, since they had already flowed back in the form of reparations, interest, and payments for imported goods.

From 1930 onwards, Germany was to a particularly severe extent involved in the crisis in world economy then beginning. The unemployment figures surpassed those of other countries by far. The withdrawal of foreign credits resulted in a collapse of the big German banks in the summer of 1931, and at the same time foreign exchange control had to be imposed about one and a half years before Hitler's accession to power.

From the date of this bank collapse until after Hitler's seizure of power, Germany's economy was indeed in a state of agony. The characteristics of the situation were more than 6 million completely unemployed, a still greater number of part-time workers, an incredibly high number of insolvencies, a consequently growing decrease in domestic sales, and a continuously decreasing production. The governments of that period tried to master the situation by a policy of deflation; they succeeded, it is true, in mitigating several consequences of the crisis, but not in attaining a general economic recovery.

When Hitler acceded to power, the economic distress was the nucleus of the problems which had their most visible effect in the great number of unemployed. Something had to be done, and Hitler certainly realized that his days as head of the government would be numbered if he did not succeed in overcoming unemployment.

Keppler will testify in the stand how this task was accomplished in the course of time. As Hitler's economic adviser he participated in the solution of this problem.

Already during the years 1933 and 1934 the unemployment figure decreased considerably. This resulted in an increase in the withheld domestic demands, especially in the fields of food and clothing, for which Germany had always been to a large extent dependent on imports. The increase of domestic demands resulted in an increase of imports, which however was not offset by an increase, but rather by a decrease of exports. Consequently the exchange coverage, which had already been very scanty at the time of Hitler's accession to power, diminished still further. Foreign credits could not be expected in view of the situation prevailing at that time, and on account of the bad experiences suffered by foreign creditors. Self-help was thus called for.

This was the reason for Keppler being commissioned with his tasks concerning raw materials. At the end of 1934 Hitler set him the task to alleviate Germany's difficult raw material situation by the manufacture of domestic raw materials or substitutes. Principally Keppler promoted at that time the production of domestic raw materials in four fields, namely: textiles, artificial rubber, synthetic fuels and substandard iron ores. For these tasks Keppler had an office with a staff of not more than 25 persons altogether. The reasons for Keppler's tasks were of an exclusively internal, economic nature—the overcoming of unemployment and the shortage of foreign currency. Nobody in Germany thought at that time of a war of aggression.

In the spring of 1936 Goering, as the highest functionary, was entrusted with the raw material tasks. Keppler was subordi-

nate to him, but his sphere of activity continued to have the same extent for the time being. This changed fundamentally in the autumn of 1936 when the Four Year Plan came into force. All that remained of Keppler's former economic tasks was the subsection for industrial facts and the special task of "research of the German soil [Erforschung deutschen Bodens]." All his other tasks were conferred upon the Raw Material and Foreign Exchange Office under the then Lieutenant Colonel Loeb, who developed it into a vast organization with far reaching authority. Goering had asserted himself fully and completely, and Keppler was given the empty titles of a "General Expert for Raw and Synthetic Materials [Generalsachverstaendiger fuer Roh- und Werkstoffe]" and of "Goering's Personal Adviser." [Persoenlicher Berater.]

In the spring of 1938 Keppler practically left the Four Year Plan in the course of a general reshuffling. He was now commissioned with the task of coordinating the geological institutes of the individual German Laender into a Reich office, the later Reich Office for Soil Research, with which he was subordinated to the Reich Minister of Economics. The Reich Office for Soil Research is an institution which has its counterpart in all economically developed countries. It is quite natural that this institute, which in its individual geological institutes had had a tradition of many years, was also consulted by foreign states, the geological institutes of which were less developed. This was particularly so in the case of several countries of southeast Europe, a fact which the prosecution believes it must particularly mention in its documents. Keppler's activity in the field of soil research was a purely civilian one. It was an activity which had nothing to do with war preparations. During the war Keppler fulfilled his duty towards his country in this position, as would every loyal citizen in any country of the world in a similar situation. It was set forth in a convincing manner by the IMT, as well as recently by the verdict of the American [sic] Military Tribunal VI, in Case No. 6, that such a fulfilment of duty does not constitute a punishable abetting of a war of aggression.

Taking into consideration that Keppler was not entrusted with a really important task of an economic nature until the autumn of 1936, it can already be seen on what a weak basis the charge of economic preparation of a war of aggression is founded. At that time the Hossbach Conference had not yet taken place, and the IMT has not been in a position either to find in its opinion that Hitler had at any time spoken of intending an aggressive war before the conference of 5 November 1937. But Keppler did not participate in that conference.

The verdict of the IMT, as well as that of the Military Tribunal VI in the I.G. [Farben] case, and finally the decision of Tribunal III, preceding the verdict in the Krupp Case, have each found alike that armament itself is not a crime against peace, that, on the contrary, only those can be punished who carry out an aggressive armament while being aware of the fact that this armament will be used for a certain war of aggression. Keppler's main economic task during the years 1934 through 1936 stood under quite different auspices. At the beginning of his activity there was practically no question at all of armament. Part of his activity may certainly also have been of importance for the armament sector, but what matters is the fact that he neither performed this activity for the sake of armament, nor was informed of any aggressive intentions of the political leaders. The prosecution failed to produce evidence to this effect. It sees it, however, in the bombastic speeches of Goering, which refer to the threatening danger of war, and in which there is no scarcity of warlike phrases. From none of these thundering Goering speeches could one come to any definite conclusion, however, that Germany was preparing a war of aggression. On the contrary, time and again it is pointed out that Germany would probably not be able to keep out of a war with Russia. This becomes especially evident from Hitler's memorandum, read by Goering at the session of 4 September 1936, which set forth the reasons for the Four Year Plan which was announced soon afterwards. Added to this is the fact that Keppler heard Hitler voice similar political opinions in former years when he still met him often. It was therefore impossible for Keppler, hearing such statements from highest quarters, to arrive at the conclusion that wars of aggression were planned against a number of European countries.

All these facts will be presented to the Honorable Tribunal by the defendant Keppler and the witnesses Steinbrinck and Kromer.

Under counts five and six of the indictment, Keppler is charged with participating in war crimes and crimes against humanity in Germany and in the occupied territories.

1. The prosecution considers as such crimes, for instance, Keppler's participation in certain acts of Aryanization. During his examination the defendant Keppler will define his position in regard to the different charges brought here in this respect; I shall also clear up the events through the witness Steinbrinck. Inasmuch as none of the events occurred after 1 September 1939, it is impossible that war crimes or crimes against humanity could have been perpetrated by Keppler.

2. Keppler is also charged with participation in spoliation and plunder. In its opening statement,* the prosecution describes

* Reproduced above in section V B.

Keppler, together with the defendants Koerner, Pleiger, and Kehrl, literally as follows:

"These four defendants, like the Wehrmacht, fanned out in all directions."

To back up this bold statement the prosecution has in actual fact merely presented documents about two economic enterprises, the Continental Oil A.G. and the German Resettlement Trust Company (DUT). Keppler was active in both companies in the Aufsichtsrat, not in the management. In the DUT he was chairman of the Aufsichtsrat, in the Continental Oil A.G., deputy chairman of the Aufsichtsrat. As there is quite a bit of difference between the Aufsichtsrat of German law and the board of directors under American law, I would like to point out the following facts for a better understanding of my evidence—

In presenting its documents, the prosecution has repeatedly designated the defendant Keppler as President of the DUT and as Vice President of the Continental Oil A.G. This implies a definite misunderstanding of his position. The Aufsichtsrat of a corporate body is, according to German law, merely a supervisory organ. The Vorstand is in charge of the business management. The Aufsichtsrat, and also its chairman, are excluded from the management of the business. In the board of directors in an American corporation, both functions are united. The president and the vice president of the board of directors belong to the managing directors. Their office cannot be compared with that of the president or vice president of an Aufsichtsrat according to German law. If any comparison were possible, then one could compare the president of a board of directors with the chairman of the Vorstand of a German corporate body.

a. In Case No. 6 (I.G. Farben)*, two members of the Aufsichtsrat of the Continental Oil A.G., namely the defendants Krauch and Buetefisch, were acquitted on the count of indictment which referred to the Continental Oil. The judgment (*Tr. p. 15746*) states in regard to this:

"We are not satisfied that Farben ever directed or influenced the activities of the Continental Oil Company in any effective manner, and cannot conclude that the mere membership of Krauch and Buetefisch on the Aufsichtsrat, which was not the managing board, in the absence of a more complete proof of direct and active participation on their part, constitutes a sufficient degree in the spoliative activities carried out by Continental Oil Company, for a finding of guilty under Control Council Law No. 10."

* United States *vs.* Carl Krauch, et al., volumes VII and VIII, this series.

In spite of his position as deputy chairman of the Aufsichtsrat, Keppler was not in a more influential position than the defendants Krauch and Buetefisch. The deputy chairman only acts as deputy for the chairman in case he is prevented from appearing. The prosecution offered no evidence that Keppler took an active part in the Aufsichtsrat of Continental Oil. I shall also substantiate this fact with my documents, and through Keppler and Blessing as witnesses.

Besides, I intend to prove, as a further precaution, that the unsubstantiated statement made by the IMT, according to which the Continental Oil A.G. was a spoliation company, is not correct. Let me make a statement in regard to the exceptionally difficult legal status. The judgment in Case No. 6 (I.G. Farben) stresses the fact that the Hague Rules in regard to crimes against property were phrased very generally. These rules were drafted at a time when there was as yet no Communist system of economy in any country of the world. Despite this fact, the judgment in Case No. 5 (Flick)*, while referring to the IMT judgment, applied the regulations of the Hague Rules of Land Warfare concerning public property also to the case of Soviet Russia, and this is logically correct; for the Military Tribunals have constantly, despite the revolutionary advancements in the technique of warfare and of social and economic conditions, considered the Hague Rules as inviolable, as invariably valid international law. If one takes this point of view, then one also has to apply the regulations of the Hague Rules of Land Warfare pertaining to public property to the case of Soviet Russia. This would result in the occupying power having to administer the industrial property of the Soviet Union as usufructuary according to Article 55. The judgment in Case No. 5 (Flick) arrives at the same conclusion.

The establishment of this fact is of decisive importance to the case of the Continental Oil A.G. For I shall prove that the Continental Oil never exceeded the role of a usufructuary. The intentions of the political leaders might have gone further, but they were not carried out, as the failure of the campaign against Russia occurred before any decisive acts could be undertaken.

Insofar as there were installations for the drilling of oil on Soviet Russian territory occupied by German troops, they were all destroyed and deserted by their former management. They had to be placed under German management; this was according to the terms of the Hague Rules of Land Warfare, according to which the occupying power has to rehabilitate and maintain public order and public life in occupied territory (Article 43). After thorough or partial repairs had been made to the installa-

* United States *vs.* Friedrich, et al., volume VI, this series.

tions, production usually remained very low, much lower than the quantities imported into the occupied Soviet territories from Germany or Rumania, which was allied with Germany, and used for the needs of the economy, especially the agricultural economy. The Continental Oil A.G. had nothing at all to do with the main oil region in Soviet Russia—the Caucasus—only the very smallest part of which was occupied by German troops; the Petroleum Brigade, which was solely under the Wehrmacht, was active there. Not one drop of oil, to be sure, resulted from this enterprise, but an inestimable amount of drilling equipment, to the value of far more than RM 100 million, was abandoned during the retreat of the German troops.

Under these circumstances there can be no talk of robbing and plundering in the oil region; in no case was the Continental Oil A.G. involved in any acts of spoliation whatsoever.

b. Nor was the German Resettlement Trust Company (DUT), a limited liability company, involved in robbing and plundering. The task of the company was to attend to the financial needs of the ethnic German resettlers who voluntarily returned to Germany after the beginning of the war from various areas in eastern and southeastern Europe on the basis of national treaties. One may consider the plan of this resettlement as one will; as such it was in no case a war crime. Besides that, the DUT was not created until after the resettlement had already been begun. From then on it was necessary to look after the proper handling of the property interests of the many people who had abandoned the greater part of their property in their land of origin, and who had been promised compensation for their loss. The DUT had to liquidate the property which had been left behind by the resettlers, safeguard it, provide the resettlers with financial assistance until they were established in a new property, and assess this new property for the purpose of comparing it with the property loss suffered in the homeland. Its activity was that of a trustee and a bank. The DUT had nothing to do with the administration of property which had been confiscated and taken away, with one single exception—it administered a certain trust in Alsace and Luxembourg over the property of citizens of the two above-mentioned states who had been deported to Germany by the government authorities for political reasons; in connection with this it defended the interests of the deported persons and frequently drew upon itself the displeasure of State and Party offices. No participation in robbing and plundering is perceptible. Moreover, this working sphere of the DUT was so small and was so disconnected from its other tasks that no *prima facie*

evidence has been produced that Keppler received any knowledge at all of these matters.

As Chairman of the Aufsichtsrat of the DUT, Keppler acted with that honesty which was characteristic of him in both his business and private life. There are a number of proofs available for this, and he himself will also demonstrate that to the Tribunal as a witness. It is of interest and importance in this connection that no member of the Vorstand of the DUT was indicted in the Resettlement [RuSHA] Trial (Case No. 8)*, although they were all arrested and in Nuernberg Prison for a time. All the members of the Vorstand of the DUT are at liberty today.

c. Keppler's activity in the so-called Circle of Friends (Freundeskreis) has also been treated by the prosecution as a war crime and crime against humanity under count five of the indictment. The prosecution, to be sure, has failed to answer the question as to what crimes this Circle of Friends is said to have committed. The judgment in Case No. 5 (Flick) found the following with respect to the activity of the Circle of Friends (*Tr. pp. 11016–11017*):

> "We do not find in the meetings themselves the sinister purposes ascribed to them by the prosecution. * * * So far we see nothing criminal nor immoral in the defendants' attendance at these meetings. As a group—it could hardly be called an organization—it played no part in formulating any of the policies of the Third Reich."

The group was formed by Keppler, from several outstanding industrialists, as early as 1932, as a board of economic advisers for himself and therefore also for Hitler. Through the influence of the very ambitious young SS Leader Kranefuss, not approved by Keppler, the group came more and more into contact with the SS. Thus it happened that the gentlemen in the Circle of Friends were asked for money contributions for Himmler's cultural aims. The fact that funds were raised by the Circle of Friends which amounted to around one million to a million and a half RM a year has been brought against the defendants who participated in it, by the judgment in Case No. 5 (Flick). I offer no opinion as to whether the findings of the Flick judgment are right or wrong on this point. In any case, the evidence collected in the meantime shows that the assumption in the Flick judgment, that during the war Himmler was no longer able to use such sums for his cultural hobbies, was not correct. Moreover, I am able to prove that the defendant Keppler neither had any-

* United States *vs.* Ulrich Greifelt, et al., volumes IV and V, this series.

thing to do with the request for contributions, nor did he himself make any such contributions from his own property or from the funds of others. In this respect Keppler could have personally refuted for himself any charge, even as far as the Flick judgment is concerned, which was very severe on this point.

Keppler is finally accused of participating in criminal organizations as a member of the SS and of holding a high Party office.

Keppler was an honorary leader in the SS.* I am not of the opinion that he thereby became a member of a criminal organization. It is clearly established, by virtue of the documents submitted by me, that SS honorary leaders, according to the decrees of the Bavarian Ministry of Denazification which have been approved by the American Military Government, are not considered members of an organization declared criminal by the IMT, unless they actively assisted the SS. This Keppler did not do, as I shall prove. I offer no opinion as to whether the Tribunal is bound by the views of the American Military Government on the question of SS honorary leaders. In any case this official view is a relevant precedent. The I.G. [Farben] judgment also pointed out the close connection between Article II, paragraph 1(*d*) of the Control Council Law in conjunction with the IMT judgment on the one hand and the Denazification Law of 5 March 1946 for Bavaria, Greater Hesse, and Wuerttemberg-Baden, on the other. The IMT recommended that in no case should higher penalties be imposed than are provided for in the Denazification Law; it also established the rule that nobody could be punished under both laws. In the last analysis, however, the rule to be derived from these decisions would be broken if the Spruchkammer [Denazification Court] authorities, which are competent according to the Denazification Law, should not punish an action—and refrain from doing this with the approval of the American Military Government—whereas the American [sic] Military Tribunals should regard the same action as punishable.

With reference to this point I should only like to remark by way of caution that Military Tribunal VI in the I.G. Farben case adopted the same view as Military Tribunal II in the Pohl case, namely that the prosecution must prove that an SS member had knowledge of the crimes of the SS.

In conclusion, the prosecution has also alleged that Keppler held an office in the Party Directorate of the Reich. He was once appointed office chief before 1 September 1939, namely, in 1937. However, this appointment lasted only a short time and immediately expired again. Moreover, Keppler never occupied an

* On 30 January 1942 Keppler became an SS Obergruppenfuehrer (Lieutenant General). (*Tr. pp. 19694–19695.*)

office at the Party Directorate, as the judgment of the IMT requires. I have proved by submitting suitable documents, which again are decrees issued by the Bavarian Ministry of Denazification with the approval of the American Military Government, which offices were those whose directors were declared members of a criminal organization within the meaning of the IMT judgment. The office of the defendant Keppler does not appear among these offices. I have also included numerous affidavits on this point in my document books. In conclusion, the defendant Keppler himself will comment on these matters as a witness.

In compliance with my client's wishes I take the liberty, at the conclusion of my arguments, of repeating the request which the defendant Keppler had already submitted to the Tribunal at the end of his first examination, namely, that the Tribunal itself should put questions to Keppler, so that he would be in a position to explain those parts of the voluminous prosecution material which in the opinion of the Tribunal are important, and which do not appear to the Tribunal to be sufficiently cleared up as yet, in spite of the evidence produced by the defense. I consider this request particularly justified in the case of the defendant Keppler, since on account of his very unsatisfactory state of health Keppler is not in a position to reply as thoroughly and exhaustively to all the counts of the indictment as he and his defense counsel consider desirable. Since even in this case the Tribunal has regrettably not permitted witnesses to be heard before the Tribunal[1] for the purpose of making it easier for Keppler, the request of my client appears to me to be of particular weight.

F. Opening Statement for Defendant Bohle[2]

DR. GOMBEL (counsel for defendant Bohle): May it please Your Honors. In presenting this statement to the Honorable Tribunal on behalf of my client, Ernst Wilhelm Bohle, I should at first like respectfully to remark that in view of the present status of the trial against the defendant Bohle, my defense is divided into two entirely different parts. The defendant Bohle is now charged only in two counts of the indictment, namely, count five, crimes against humanity and war crimes, and count eight, membership in organizations declared criminal by the IMT. The prosecution have meanwhile withdrawn his name from the other three counts of the indictment originally preferred

[1] Reference is made to the Tribunal practice of directing that the evidence of many witnesses be taken before Commissioners of the Tribunal. Apart from the defendants themselves, most of the testimony of defense witnesses was taken before Commissioners.

[2] Transcript pages 13461–13473, 23 July 1948. The final statement for defendant Bohle is reproduced in section XIV, volume XIV, this series.

against him, and such withdrawal has been confirmed by an order of this Tribunal.

On account of this development of the case against Bohle, it is obvious that my opening statement cannot be regarded as being in keeping with the general trend of the opening statement of the prosecution, inasmuch as the basis of the case has in the meantime changed completely.

The defendant Bohle has pleaded not guilty to count five of the indictment, and insofar it will be the task of the defense to submit evidence in proof of his innocence. On the other hand, the defendant has entered a plea of guilty to count eight; it therefore remains for the defense to submit to the Court the mitigating circumstances with respect to this charge.

At this point I would like to direct the attention of the Court to the fact that the two remaining charges against the defendant Bohle differ not only with respect to the pleas entered, but also with respect to their legal nature. Whereas count five bases its charges on actions constituting punishable acts, count eight of the indictment makes liability to punishment dependent on membership in an organization, and knowledge of the criminal activities of this organization. This latter count, therefore, does not necessarily require any activity, but merely knowledge, plus the fact that the member did not resign in spite of his knowledge after 1 September 1939.

Originally the defense tried to spare this Tribunal an extensive hearing of evidence and legal argument. Therefore a motion to dismiss count five was filed. However, the prosecution in their answer dated 11 June, have, it is submitted by the defense, brought a certain confusion into the subject matter which, as such, is by no means intricate. It is my opinion that the decision as to whether the defendant Bohle is guilty under count five or not, is solely dependent on the decision of a certain legal question. The defense have always considered it their duty to admit frankly all the activities of the defendant Bohle and his organization.* It has never been the endeavor of the defendant Bohle to contest facts which were true or to minimize his guilt. Therefore, I feel that under count five of the indictment the guilt of the defendant Bohle does not depend only upon the solution of the problem whether the defendant Bohle or his organization did or did not commit certain acts. The decision here will be whether the activities admitted are relevant in the sense of Control Council Law No. 10 or not. It is for this reason that the defense in their opening statement will primarily give consideration to certain legal argumentation.

* The Foreign Organization (Auslands-Organisation) of the Nazi Party.

I shall now first consider count five. The basic theory underlying the contentions of the prosecution would seem to be as follows: The defendant Bohle is guilty of having committed crimes against humanity and war crimes with respect to count five of the indictment because he held a high office within the political and governmental structure of the Third Reich, and I quote from the prosecution's answer to my motion to dismiss count five: "The defendant Bohle was involved in the criminality planned, initiated, and committed by the leaders in the government, Party, and other high functionaries in the military, economic, and industrial fields. The evidence clearly establishes the high position that he held. * * *"

Apart from their determination to clarify to the full the questions at issue, it is in the case of Bohle the prime objective of the defense to submit to the Tribunal in their Final Argument legal judgments and legal opinions of their own to show that such a theory is juridically untenable. At this stage of the proceedings, however, the defense desire to consider the problem raised by the prosecution from a totally different point of view.

The prosecution derive their contention of the guilt of the defendant Bohle in the sense of count five of the indictment from the fact that Bohle held high ranks in NSDAP organizations, and that such organizations were connected with the commission of crimes against humanity. In so doing, the prosecution, to a considerable extent, restrict the question of guilt and liability to punishment to Bohle's membership in certain organizations, and they are apparently of the opinion that all persons belonging to such an organization or category are for this very reason alone already burdened with criminal guilt. Since the organization of the so-called dialectical materialism, this form of reasoning, that is, the mode of thinking in categories, has continually gained ground in the Western World. It would lead too far to investigate the reasons for this. One of these reasons might possibly be the conglomeration of masses of people whose problems, it would seem, can no longer be solved by a mode of thought which regards these masses as a collectivity of individuals, but only by subdividing them into categories. Again, it may also be that we are experiencing the decline of Western civilization which no longer produces the strength to comprehend and appraise correctly the manifold problems that life presents, and which, in order to be able to solve its problems at all, must need have recourse to the crutches of thinking in categories, reducing life thereby to a few typical and radically simplified facts. At any rate, this system of thinking in categories appears to the defense to be an extremely dangerous one, as has been exemplified by the political

development of the twentieth century in general, and of the Third Reich in particular.

At this point I should like to mention an example which has played a decisive part in the Nuernberg trials, and which, at least in some cases, might possibly appear to constitute the basis of such trials, that is, the problem: National socialism and the Jews. National socialism did not consider the individual person of Jewish race, nor did it take into account the worth or otherwise of the individual; on the contrary, it formed a category, the Jews as a whole, and assigned to it without any differentiation persons of diametrically opposed character and qualities, as for instance, persons with the highest political and cultural reputation, and simultaneously, notorious criminals. All these persons, regardless of their individual characteristics, were regarded and treated collectively; and it is this collective way of thinking in its extreme which ultimately prompted criminal brains to plan and carry out the ghastly program known as the "Final Solution of the Jewish Question."

If, in political life, this kind of thinking in categories can lead to such terrible consequences, the defense takes the position that the application of this line of thought to criminal court proceedings is not only very problematical as such, but likewise extremely dangerous. It may leave it undecided whether, in spite of the dangers referred to above, the method of thinking in categories does not sometimes constitute the ultimate means of tackling the problems of the treatment of masses in political life. In accordance with the nature of criminal proceedings, however, these deal not with a multitude of persons, but with an individual. It would seem highly injurious, therefore, if such proceedings were governed by principles which do not make the individual and his deeds the basis of the trial, but rather the fact that this individual belongs to some political, economic, or other category. The defense are in a position to exemplify this to the Tribunal by referring to the failure of denazification in Germany, a fact which has also not remained unknown to the occupying powers. Some people seek to explain this failure by declaring that a revolution cannot be replaced by a court proceeding. However, I would like respectfully to submit to the Tribunal that in all probability one of the essential reasons for the failure of the denazification procedure is to be found in the fact that the basis of this procedure is a law which makes the liability of individuals to punishment to a considerable extent dependent upon their association with certain groups, classes, or categories.

I cannot help feeling that the prosecution, to a certain extent, did not overcome the temptation to construct a criminal guilt of

the defendant Bohle with respect to count five by applying the method of thinking in categories. It appears to me that the prosecution base their allegations on Article II [paragraph] 2(*e*) of Control Council Law No. 10, a legal provision which defines participation in a way that can easily lead to the conclusion that mere membership in a certain organization is sufficient to constitute a participation in crimes committed by other individuals. It is probably not accidental that this article in its present wording is traceable to the influence of the Soviet legal expert Professor A. N. Trainin, that is, to a person whose entire legal education and experience is based on the philosophy of dialectical materialism. I should like to draw the attention of the Tribunal to this, and also to the fact that the Western Powers, when Control Council Law No. 10 was under discussion, at first did not agree to accept the above-mentioned legal instruction. Moreover, it is noteworthy that the Nuernberg Military Tribunals have established a jurisdiction, applying Article II [paragraph] 2(*e*) of Control Council Law No. 10, not in the sense which it would have according to the Trainin theories, but restricting the definition of participation in a crime to such an extent that this definition coincided with the long established legal principles of most of the civilized nations. The defense will revert to this subject in their final argument.

The defense of Ernst Wilhelm Bohle, therefore, take the position that in accordance with the cornerstone of democratic living, namely, the right of an individual to say what he thinks and to join any political party he wishes, he should not be judged by what he thought or believed in, but by what he did. We respectfully hold, therefore, that Bohle stands before this Tribunal not as the representative of a category, nor as a former member or functionary of the National Socialist Party, but as an individual, and that the deeds of the man E. W. Bohle are the subject of judgment by this Court.

The question at issue now is: What are the punishable activities of the defendant within the framework of count five of the indictment? The defendant Bohle has not hesitated to admit that he took a part in the undermentioned activities, namely:

1. The exclusion of Jews from German economic life and from German citizenship;

2. The repatriation of German citizens from the Baltic states.

In these cases the liability to punishment does not depend only upon the establishment of the facts as such; the legal question to be submitted to this Tribunal for decision is whether these activities are regarded by the Tribunal as punishable under Control Council Law No. 10. The defense will present to the Court

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in their final argument their contention that these deeds are not covered by Control Council Law No. 10.

With particular reference to the repatriation of German nationals from the Baltic states, the defense will show that it is a sovereign right of any nation to recall its citizens home whenever it so chooses, and that these activities do not come even within speaking distance of a crime. In this connection it will be shown that the Auslands-Organisation was at no time and in no way competent for foreign activities of the Party other than those affecting the interests of German nationals abroad, and that the Auslands-Organisation was especially not competent for the so-called coordination of the foreign activities of other Party agencies.

The prosecution furthermore charges the defendant Bohle with two other activities, namely, participation in the execution of hostages and participation in the so-called Final Solution of the Jewish Question. In these cases it will be the task of the defense to prove that the defendant Bohle and the Auslands-Organisation had nothing to do with these crimes. The only evidence produced by the prosecution with respect hereto are a few documents in which the defendant's office is one of a large number shown on the distribution list. The Tribunal has already heard abundant evidence showing how shaky such evidence is which is based merely on distribution lists, and I shall therefore refrain from dwelling any further on this point at the present moment.

I shall now consider count eight of the indictment. It is the first and probably the only occasion that a defense attorney in Nuernberg submits a plea in mitigation after the defendant has pleaded guilty to the count as charged. The reasons which prompted the defendant to do so are primarily his reflections that a National Socialist leader should consider it his duty and a matter of personal integrity to recognize the responsibility he held for his activities during the Third Reich, simultaneously accepting such responsibility for his collaborators and subordinates who carried out his instructions in good faith. At this point the defense would like to observe that the theory of group criminality is alien to Western legal thinking both as regards the Anglo-Saxon and the Continental mode of thought. This theory was established by the IMT as an absolutely novel one and there have been many divergences of opinion all over the world with respect to it. However, the defendant Bohle in pleading guilty has accepted the theory of membership crime as defined by the IMT judgment, and the common practice of the Nuernberg Tribunals.

According to Anglo-Saxon penal procedure the character of the

defendant and his personality are the decisive factors in a plea of mitigation. Therefore, in presenting my evidence I would like to direct the special attention of the Court to the personality of my client, his personal background, and all the influences which were predominant in shaping his life. It is my standpoint that Bohle's political career is understandable only by taking into account that he was a German, born in England, who spent his entire youth in the Union of South Africa, but was brought up by parents who were most patriotic and ardent Germans. The defense will show how the passionate love of the Bohle family for their home country, Germany, led Ernst Wilhelm Bohle's father, a noted scientist and professor at the University of Capetown and Fellow of the Royal Society of South Africa, to become the first regional leader of the NSDAP in South Africa, and how it led the son, a graduate of the South Africa College High School, to become the Head of the Foreign Division of the National Socialist Party in Germany. The defense will furthermore endeavor to portray the ideas and guiding principles Bohle had in building up the Auslands-Organization as a world-wide association of the communities of German citizens abroad, and how strongly British ideals and their admirable spirit of national solidarity influenced the young man of 29 when he was confronted with this tremendous task.

In presenting their case the defense will set forth before this Tribunal the positions of the defendant, his spheres of activities, the powers vested in him, and their limitations. The defense will especially stress the fact that the defendant Bohle, in contrast to other National Socialist leaders of equal or similar rank, held no executive power. The defense will furthermore draw attention to the unique position that Bohle held within the framework of the National Socialist hierarchy, both as regards his personal background, as well as the methods he employed in the implementation of his duties.

The defense will also clearly set forth, with respect to Bohle's membership in the SS, that he held nothing but an honorary rank and was merely a member who had no functions whatever, nor any power of command in the SS.

The defense will furthermore give the Tribunal an exact account of Bohles' knowledge of the criminal activities of the Nazi regime. In this connection it will become evident that even a National Socialist leader of Bohle's rank was not informed of such activities to the extent later established by the IMT, and other disclosures. In giving this account I will produce evidence showing the reasons why the defendant Bohle remained in his office as leader of the Auslands-Organisation after he had gained

knowledge of certain criminal activities of the Nazi regime. At this point I would like to emphasize that these reasons will not be shown to the Tribunal in order to contest his guilt, but only with the object of giving an explanation.

The defense consider it imperative to conclude their opening statement with a few observations of a basic nature regarding the question of legal judgment with respect to National Socialist leaders in general. The problem is undoubtedly one of the most difficult of the many problems that have arisen in Germany since 1945. The viewpoint of the defense is as follows:

The IMT, and the disclosure of the truth subsequent to Germany's collapse, have established the fact beyond any doubt whatever that the Nazi regime was guilty of numerous criminal activities, which have horrified the German people no less than the rest of the world. However, in judging the deeds of a National Socialist in the Third Reich the defense is of the opinion that it cannot be presupposed in each and every case that a National Socialist viewed the regime in the manner which is today possible. There is, therefore, a great discrepancy between the facts of the Nazi regime and the conception of the National Socialist government as held by many of its representatives during the Third Reich. It would thus seem to be a grave mistake to place a National Socialist in each case on the same level with a criminal. The impression may easily be gained both in Nuernberg and generally in Germany, that this equalization is widespread. Otherwise, it would not be comprehensible that so many persons, who were doubtlessly adherents and collaborators of the regime, today refuse to admit that they ever were or even desired to be National Socialists. The defense of Bohle takes the position that the words "National Socialist" and "criminal" are not necessarily and *ipso facto* synonymous. It cannot be denied that there were many criminals in the National Socialist Party, and it is an established fact that the Nazi regime committed a great number of unprecedented atrocities. But it is also an undeniable fact that very many National Socialists were not connected with the criminal side of the Nazi regime, and it is likewise just as true that many participants in Nazi criminal activities were certainly not National Socialists.

In this connection I would like to give expression to my experience in collecting evidence in favor of my client. I do not wish to draw a comparison in general between the possibilities of the defense and the advantages of the prosecution, as these facts have repeatedly been the subject of discussions before this Tribunal. I only wish to limit myself to the statement that the respective situations of the defense and the prosecution were

definitely unequal with respect to German witnesses. I can best express what I mean by saying that the prosecution were swimming with the tide and the defense against it. It has proved to be a possibly understandable, although not very fair, inclination on the part of many Germans to denazify themselves by shuffling off everything that was bad on to the Party and claiming for themselves whatever good points there were. This widespread tendency thereby to cover up their own weaknesses and cowardice has been a strong impediment to so many attempts to establish the truth. I believe this is best demonstrated by stating that the defense sometimes has a feeling not very dissimilar to that of a person in the Third Reich who desired to help a Jew. The defense has, in certain instances, even experienced more fairness from quarters which had reasons to be antagonistic than from numerous German fellow countrymen.

In conclusion I should like to state the following: The Nuernberg trials, and other evidence of a manifold nature, have without doubt revealed to more than one National Socialist that he served a system which in its ultimate and now recognizable effects has proved guilty of numerous crimes. In the light of Control Council Law No. 10 such service implies a certain guilt which finds its expression in count eight of the indictment. The defendant Ernst Wilhelm Bohle has openly and honestly pleaded guilty hereto. He thereby recognizes and acknowledges without reserve that, by having continued to render such service after he had gained knowledge of certain violations of international law by the Political Leadership Corps or the SS, he has transgressed in the eyes of the law. However, it will be the earnest endeavor of the defense to demonstrate to this Tribunal their deep conviction that the rendering of such service at no time emanated from any criminal intent on his part, and that this fact, in conjunction with his frank declaration of penance, embodied in his plea of guilty, deserves to be recognized as constituting mitigating circumstances.

Your Honors, this concludes my opening statement.

G. Opening Statement for Defendant Woermann*

DR. SCHILF (counsel for defendant Woermann): Mr. President, Your Honors. The peculiarities of the trial before this Tribunal are such that, at the moment when I am formally about to open the case for the defense, *part* of the tasks incumbent upon me as the defense counsel of the former Under State Secretary and Ambassador, Dr. Ernst Woermann, have in one way or another already been completed.

* Transcript pages 10831–10843, 2 July 1948. Extracts from the closing statement for the defendant Woermann are reproduced in section XIII, volume XIV this series.

Several witnesses for the defense of other defendants, and also witnesses for the prosecution, have already made statements which facilitate my presentation of evidence. The same is true of documents which other defendants have submitted. I thus may presume that the main features of the organization of the Foreign Office, and the part assigned to the Political Division headed by Dr. Woermann, in the years 1938 to April 1943, are already known. The result of the proceedings conducted so far —not only the judgment of the IMT—has given us a clear picture of the ominous personality of von Ribbentrop; it was the fate *not* self-chosen, of Woermann to work under him. The name of another opponent of Dr. Woermann, that of the chief of the section "Germany" in the Foreign Office, Martin Luther, has come up here in these proceedings again and again. The Tribunal has already before it voluminous and convincing evidence concerning the part which Luther played and his fateful influence. I can pass over many other points, which in this connection I should have had to present for the purpose of completeness.

A part of my own presentation of evidence I had to anticipate. The documents which I had assembled for the defense of my client, were—contrary to those of the prosecution—submitted on 29 June 1948 to a commissioner. I do not wish to criticize this procedure, but I regret it, because it interferes with the directness of my presentation of evidence before this Tribunal. I shall offer a rather imperfect substitute by references to those documents submitted to the commissioner.

Only in a few instances has the name of Dr. Woermann been mentioned by prosecution witnesses. Aside from these unimportant exceptions, the evidence brought by the prosecution consists of documents. Here, too, in the two previous defenses of defendants belonging to the Foreign Office, the defense has dealt with the problem which is not very simple—of how at the time of dictatorship and terror, documents had to be written, and how they must be read today in order to enable people to grasp their real significance. Here in Nuernberg, the defense must constantly emphasize how incumbent it is on a foreign court to evaluate rightly those atmospheric conditions unknown to it, which are so decisive for the judgment on every defendant in the present trial. If one were to read those documents without taking these circumstances into consideration, one would judge actual events only according to abstract standards. It would be the same as if one were to judge the music played by a full orchestra only according to the physical vibrations of the instruments. The music produced by such an orchestra is rather

determined by the shade of sound, as living music. The point thus is to hear these shades of sound. And the documents submitted here must be interpreted in such a manner, from the point of view of their variations in sound. Like other defense counsel, whose task it is to comment on the actual nature of diplomatic documents, I shall be able to show, on the basis of a few examples, that an utterly distorted picture is created if one takes a document away from its general context, unless one consults at the same time other documents for explanation. The work of the defense in this respect could unfortunately be only very incomplete. The Honorable Tribunal was kind enough to make the files of the Foreign Office, stored in Berlin, accessible to us. In spite of that three main factors lower the value of this aid considerably: The first is that the prosecution is able to procure evidence from other sources too—and has procured it especially during the latest period—which, at least until now, are not available to the defense. The second is the time available and the difference in the number of personnel available to both parties. The prosecution was actually in a position to prepare itself during a number of years, while the defense had, for the same purpose, only a couple of months at its disposal. The prosecution employed a large well-trained staff for the examination of the documents, the defense was compelled to have this tremendous amount of documentary evidence examined by only one person. Finally, the third factor is of special importance: The Tribunal is forced to a great extent to acknowledge and to judge historical incidents. Only the records of the state to which the persons here in the dock belonged were made available, while all those of the other powers are still inaccessible even today. I may be permitted to explain that by giving a short example. Some defendants, former members of the Foreign Office, tried by laborious work to compile facts as to the exact time British troops landed in 1940 and 1941 on the Greek isles and mainland. That fact has been, of course, historically established. Foreign records contain indisputable material on this subject. This material is not made available to the defense, and under these circumstances, how is the defense expected to find the exact truth of this fact? Now—in order to expand this example—if the defense had succeeded in establishing the exact period, then the prosecution might confront the defense with the statement that the forces landed there were only very small ones. How can the defense submit evidence to the contrary if it does not have access to documents which are kept by the victorious powers under a strict seal of secrecy? It is evident that the defense in particular is not in a position to submit to the Tribunal evidence which can

really be used in history. But historical events are the evidence which is submitted to the Tribunal for its decision in connection with many points of the indictment.

As defense counsel of my client I have the additional task of tracing back the position of Dr. Woermann as Chief of the Political Division of the Foreign Office to the actual powers given to this position, and to refute the assertion of the prosecution, especially in the last part of the evidence produced, which tries to identify this Chief of the Political Division with a part which in reality was never entrusted to him. The prosecution tries to make Dr. Woermann chief of the entire Foreign Office, and wants to make him responsible for matters which took place at the Berlin Central Office and at the German agencies in foreign countries, of which everyone, even only slightly acquainted with the conditions, knows that they took place completely outside his sphere of tasks and outside his responsibility. The prosecution did not submit any evidence supporting this attempted exaggeration of the actual position of my client. Therefore I do not intend to discuss in my presentation of evidence the assertions of the opposite side in detail—especially each individual document, which has no connection whatsoever with my client—but I would like to reserve the right to submit what is necessary in my final argumentation. Then, I will have the opportunity to disprove the wrong theories of the prosecution which are based on a wrong interpretation of the position of the Chief of the Political Division. Then I will also make statements in connection with the problem of the duty of supervision, and from a legal theoretical point of view also the question of the so-called offense of omission. The fact that my client will be ready to admit the responsibility which was really his, and which corresponded with his actual position, will destroy the legend brought forward by the prosecution.

As far as the individual counts of the indictment are concerned, Dr. Woermann, after excluding count four, is still accused under all seven remaining charges. The most important part of the defense will be that he himself will take the stand and testify in connection with the assertions of the prosecution, as witness on his own behalf. Among the many hundreds of documents which the prosecution submitted as evidence against him, there are only a very few which bear his signature, or which show that he took an active part in the affairs concerned. The main issue of my defense will therefore be concentrated on these documents. Mr. von Weizsaecker when taking the stand, testified to a great number of other documents which the prosecution has tried to connect with Dr. Woermann. Unfortunately it will not be possible

to avoid Dr. Woermann's testifying as witness in connection with some documents which were already under discussion. On one hand, the line of general defense, according to which these documents are to be judged by the Tribunal, is not the same in the two cases, and, on the other hand, the connections with the individual documents and the responsibilities were different.

Dr. Woermann must also defend himself against count one of the indictment and against count two of the indictment, as far as the latter has not been excluded by the decision of the Tribunal. There is hardly another problem where the decision of the International Military Tribunal is disputed to such an extent as the problem of individual criminal responsibility for crimes against peace. I need only remind the Court of the extensive literature which in this connection is attached to one of the fundamental guarantees of every criminal law, and of the maxims *nullum crimen sine lege praevia* and *nullum poena sine lege.* Additional problems are raised by extending criminal proceedings to persons who, in view of their position in the Third Reich, were not at all in a position to participate in the act which the Kellogg Treaty wanted to outlaw, namely the instigation of wars of aggression. In my later argumentation I will discuss in detail the fact that the prosecution, when instigating proceedings against the above-mentioned persons, disregarded the narrow—and, according to a statement of the French member of the International Military Tribunal, Professor Donnedieu de Vabres, even very narrow—limits placed by the judgment of the International Military Tribunal, by charging my client also under these two counts. The term "waging of war" requires explanation, just like other problems in connection with prosecution's completely illegal expansion of the decision of the International Military Tribunal. I will not discuss this in my submission of evidence on behalf of the defendant Dr. Woermann, but I hope to be able, with the permission of the Tribunal, to procure an expert witness in the course of the hearing of evidence who will testify for the defense of all the defendants concerning the part of this problem pertaining to International Law in connection with Control Council Law No. 10.

Nor will I discuss in the evidence submitted for my client the question whether, as compared with the facts established by the IMT, there is new and important evidence in connection with the judgment of individual "wars of aggression." In my document books Woermann II A and II B submitted to the Tribunal in accordance with the distribution of the subject matter among the various defense counsel, which is known to the Tribunal, is documentation concerning the "invasion" of Norway, which includes

documents which at the time of the judgment of the IMT were not yet available, and which throw new light upon this question, which already in the judgment of the IMT itself was regarded with strong doubts. As concerns the assertion of the prosecution that my client participated in the planning, preparation and waging of wars of aggression and invasions of other countries, it will be proved that in this connection also, as far as the actual incidents are concerned, the assertions of the prosecution are incorrect. Even the small amount of evidence which the witness Friedrich Gaus has given in this respect is, regardless of any value which the Tribunal may place on this statement, either undisputed and has no value as evidence, or has already been disproved or will be disproved by additional evidence. Furthermore it will be shown that especially the documents which were valued to such an extent by the prosecution, have no value at all if they are read correctly, and if they are regarded in the correct connections shown and supported by evidence submitted. Under no circumstances however, are his attitude and his acts causative for any decision which resulted in a war of aggression.

With regard to count three of the indictment, prisoners of war, the assertion of the indictment, as far as it was substantiated at all, has not proven any evidence against Dr. Woermann. The small amount of evidence, which in the opinion of the prosecution may perhaps be considered as such, has already been refuted through testimony of a witness when the prosecution presented its case. This refutation will be supplemented also through the testimony of my client and by reference to other evidence. An important part of the defense will be dedicated to crimes against the civilian population, which are comprised in count five of the indictment.

Woermann's defense counsel and he himself have not the slightest intention of minimizing the horrible facts described by the prosecution. I believe, however, that at the end of the hearing of evidence it will appear clearly that Woermann had no part in these matters in the sense of Article II, paragraph 2 of the Control Council Law No. 10. Several documents which the prosecution submitted on this count of the indictment against my client, although they cannot be connected with him, either externally or organizationally as chief of the Political Division, have already become superfluous through the decision of the Court, which has rejected conspiracy in the sense of the indictment with respect to war crimes and crimes against humanity.

With regard to the Jewish problem, it will be demonstrated again that its treatment, as far as it reached the Foreign Office at all, was never handled by the Political Division and since

May 1940 it was even a jealously guarded monopoly of Luther, who has already been mentioned so often. It will be confirmed that, not only according to general opinion, but also according to Luther's own statement, he alone claimed for himself, under von Ribbentrop, the responsibility for these matters, and actually bore it. In this connection, importance will be given in my evidence, as to what this so-called "cosigning" of a department of the Foreign Office really was. Based on the testimony of the witness Dr. Lohmann, who was heard here a few days ago, it will be possible to establish, beyond any reasonable doubt, what responsibility my client Dr. Woermann had in each case. The very few documents in the interior official correspondence of the Foreign Office which bear Woermann's signature will be explained. No document with Woermann's signature, which started persecution measures against Jews, left the Foreign Office. No plan for this purpose, no initiative and no suggestion whatsoever were ever made by the department headed by Woermann. Several documents bearing Dr. Woermann's signature, which I have submitted as defense documents, were found by a lucky accident. They demonstrate the decisive, careful and also successful initiative taken by Dr. Woermann to advance the international efforts, associated with the name Rublee, regarding Jewish emigration under the safeguarding of property rights. This was in autumn 1938, when Luther was only preparing himself for the handling of these matters, and when Woermann, acting as substitute of the absent State Secretary, had the opportunity of handling this problem, which did not belong to his sphere of activity. I mention this individual case in order to demonstrate how hard it is for a defendant to protect himself in cases where he is not assisted by such an accident. I also mention this individual case because it is characteristic of Woermann's attitude regarding the question concerned.

The various facts collectively designated as "Germanization" have to be considered similarly to the treatment of the Jewish question. The defense can here limit itself to a short refutation.

The matters of the Catholic Church, as far as they were handled at all in the Foreign Office, belong to the few problems within Dr. Woermanns own sphere of activity. The evidence will confirm that the persecution of the church was carried out quite outside the sphere of the Foreign Office and that Woermann worked particularly for the preventing or restricting of this persecution, but did not promote or participate in it.

With regard to hostages and retaliatory measures, it will appear clearly that these were measures taken by the military authorities on their own responsibility. However, as far as von

Ribbentrop seems to be involved in the matter, Dr. Woermann had no part in it, nor did he personally approve of such measures. It was precisely in the diplomatic conversations, which are supposed to be the basis of the indictment that he was very careful not even to give the impression of approving measures which did not comply with the regulations of law and with the laws of humanity.

Concerning count six of the indictment—spoliation—no document at all has been submitted by the prosecution which could establish any definite connection between Dr. Woermann and those events. Therefore he does not have to defend himself regarding those matters.

With regard to count seven of the indictment—forced labor—the defense will limit itself to referring to short statements made by Dr. Woermann in the witness stand. This is also a field which in no way belongs to his sphere of activity as Chief of the Political Division.

With regard to count eight of the indictment, membership in the SS, the general part of Woermann's interrogation as a witness will offer the opportunity to demonstrate through documents that he was not a member of the SS, which was declared a criminal organization by the IMT. The conditions stipulated in Article II, paragraph 1(*d*), of Control Council Law No. 10 are, according to the decision of the IMT, not met by the fact that Dr. Woermann had received by this organization a purely nominal rank as a so-called "Ehrenfuehrer" [Honorary Leader]. My evidence will show what legal significance this position of Honorary Leader has.

I come now to my conclusion. Just as my defendant can benefit by some evidence which has already been submitted by other defense counsel, I shall in the same manner use evidence in my final argumentation, in particular with regard to legal matters, which will only be submitted later in the defense of other defendants, even if it has no direct personal relation to my client.

When the entire evidence has been submitted, Your Honors will be able to get a true picture of the personality of my client. May I ask Your Honors, in order to judge him, to go deeply into the testimony, in many cases spontaneously given on learning of Woermann's indictment, by men who had known him in his profession, and also outside his work. The distorted picture given by the prosecution will then disappear, and you will see another picture, the picture of a man who in the most disastrous hours of history was placed, not by his own will and not by favoritism of the men in power, but by his professional qualifications, in a position which carried a well-sounding title indeed, but no au-

thority. It will be the picture of a man whose endeavor it was to serve peace and not to plan wars, and who never agreed to the horrible things with which his name is associated in the indictment, but who was against them, and who in the position in which he was placed, fought well and courageously against the men and the powers of evil until he—because of this fight—was removed from his office, and under dangerous conditions was sent by submarine into exile to China.

H. Opening Statement for Defendant Ritter*

DR. SCHMIDT-LEICHNER (counsel for defendant Ritter): Your Honors, the case of the defendant Ritter is different from the cases of the other Foreign Office defendants. I am not referring now to the various counts of the indictment, because in this respect according to the prosecution, the majority of the defendants are joined together, as it were, through the common link of a conspiracy. What I mean is the actual position—not the official title—which Ambassador Ritter held in the Foreign Office, and to which, from the outset, I want to draw the attention of Your Honors.

During the whole period covered by the charges of the indictment the defendant Ritter, as we shall see, never was a leading official in the sense that he was in charge of a department.

The prosecution claims that after Hitler's accession to power "the gray eminences of the Wilhelmstrasse" were vested with powers such as they had never held before (German transcript of 6 January 1948, page 18). The opposite happened to Ambassador Ritter. He had had his day during the Weimar Republic. As the head of the German Economic and Reparation Policies Department in the years 1922–33 which he administered in the spirit of international cooperation under the Foreign Ministers Rathenau and Stresemann, he gained renown as an expert in trade policies of world fame. The influence which he had through this position on the whole of the German foreign policy came to an abrupt end in 1933. In 1937, he had to give up the Department of Trade Policies, and was left in the cold by his transfer to Brazil as Ambassador. This measure, as well as his recall from Brazil in 1938, were the results of political distrust. When he returned from Brazil in the fall of 1938 he found a new situation in the Foreign Office. Von Ribbentrop, whom he had never seen before, was Foreign Minister. There was no suitable post for him. His expectation that von Ribbentrop would keep the promise of his predecessor, von Neurath, to let him retire after

* Transcript pages 11554–11569, 9 July 1948.

his return from Rio, did not come true. His repeated applications to be allowed to retire were refused, though von Ribbentrop himself could never state how he wanted to make use of him. Two short-term special assignments occurred during this waiting period, which lasted until September 1939. On the organizational chart of the Foreign Office of 1939 his name does not even appear.

In the meanwhile, on 1 September 1939, war broke out. Ambassador Ritter learned of it from the newspapers. He had no part in it, nor in the events in Austria and Czechoslovakia that preceded it, as the evidence of the prosecution itself shows.

Your Honors, we will bear this fact in mind when, at the end of this trial, we examine whether Ritter's activities—as far as on account of his position and activity he can be said to be in any way responsible for the later expansion of the war—do not come under a totally different legal category, for undoubtedly he had no part at all in the outbreak of the war.

For some time shortly after the outbreak of the war, Ambassador Ritter once more had to engage in economic matters. From November 1939 until March 1940 he conducted the negotiations concerning the well-known economic treaty of Germany with the Soviet Union in Moscow. He did it in the best of faith, believing as he did in the sincerity and permanency of the German intentions towards Russia, which he regarded as a resumption of the close political and economic relationship to Russia which he had helped to initiate already in 1922 by the Treaty of Rapallo, and which he had subsequently, carefully cultivated. What he thought about these things is shown in a document of the prosecution itself. At a meeting of 28 February 1940, that is to say at a time when Hitler already looked quite differently upon the Russian question, Ritter stated that the greatest efforts on the part of Germany would have to be made to implement the first Russian treaty, so that the further treaties which were planned should stand on solid foundations.

In July 1940 he conducted short talks concerning the conclusion of an economic union with the Danish Government, and the prosecution tries to pin upon him the charge that he exercised an undue pressure upon Denmark. What connection this fact is supposed to have had at all with the military enterprise Norway —Denmark, which had been brought to an end before, has never been shown. The prosecution has only offered one-half of its documents.* I shall submit the other half, and shall show that

* Since the Tribunal ordered that documents in the possession of the prosecution be made available to the defense (see the beginning of the Tribunal's judgment, sec. XV, vol. XIV), the defense was in a position to acquire knowledge of all documents which had been analyzed and registered in the Central Document Room of the prosecution, even though not introduced in evidence by the prosecution.

it was the Danish Government that took the initiative in these economic negotiations, and that the negotiations were stopped by the Danish Government, without any pressure, the moment they changed their minds.

One year after the outbreak of war, in October 1940, Ritter was appointed liaison officer between von Ribbentrop and the Chief of the OKW, Keitel, and not as it is stated erroneously in the indictment, the OKW as such. He was not to engage in the numerous current affairs which had to be settled during the war between the Foreign Office and the OKW. For this there was, on both sides, the machinery of the various specialized departments. Ritter became active only in individual cases, that is to say, if von Ribbentrop charged him with a certain task with Keitel or his deputy. He was thus outside the current operations of the Foreign Office. He headed no department in the Foreign Office—misunderstandings about the significance of the small special Referat (section) "Pol I N," I shall clarify—and he was subordinated to nobody in the Foreign Office except von Ribbentrop. He could not give orders to any department, and nobody, including the State Secretary, unless the latter deputized during the Minister's absence, could give orders to him.

This independence of Ritter from the departments of the Foreign Office will make it evident—as far as the evidence of the prosecution has not done it before—that he did not bear any responsibility for the activity of the departments. He does not want by this to dissociate himself from his colleagues by any means, but only to define his competencies clearly. The prosecution has evidently recognized this exceptional position of Ritter's quite correctly. In order to establish connections with as many counts of the indictment as possible, the prosecution tries to throw an emergency bridge from his isolated position to the work of the various departments of the office. Its pillars are the well-known telegram distribution lists on which his name also appears, sometimes with a more or less arbitrary dash, sometimes without a dash. The prosecution tries to adduce proof from this for some kind of participation, or, if nothing else, at least proof of his knowledge. I do not believe that Your Honors will make use of this wobbly emergency bridge, and I believe, on the other hand, that the defense will not find it hard to tear down the decayed pillars of this bridge in good time.

Ambassador Ritter's independence from the departments of the office, was, however, only one aspect of his position. He did not belong either to von Ribbentrop's closest assistants, that is to say to the circle of higher officials who followed him automatically to any place he went, spent their working hours at his office

regularly, day in and day out, and worked there together with him in most cases until late at night. Ritter became active only on von Ribbentrop's special orders. Weeks might pass sometimes without this happening. These activities were not at all on the level of Ritter's former position of influence, and no use was made of his great knowledge and experience in the field of foreign trade policies. That Ritter was chosen for the post must be attributed to the fact that von Ribbentrop needed for this task a man holding a position that was on an equal footing with Keitel and other high military officials.

After having shown, Your Honors, through my presentation of the evidence, the details of this position, and after having considered in this light the details of his activity, you will be in a position to judge more easily the fundamental question of the scope of his legal responsibility.

When we now consider the various counts of the indictment in the light of these circumstances, the following picture emerges:

Counts one and two of the indictment:

The establishment of the guilt or innocence of a defendant implies—as Military Tribunal V has found in the case against the so-called South-East Generals*—proof of the commission of an act, or omission to act, of a causative nature from which a guilty intent can be inferred.

According to the evidence submitted by the prosecution against Ritter, the only thing that can be seriously discussed is the war against Greece. Was his activity the cause, or at least one of the contributory causes for this facet of the war? Putting that question is to deny it. I shall not fail, in my presentation of the evidence, to comment on the prosecution documents. But it is not my intention to argue with the prosecution on the value and significance of all the different documents under this count. The questions, Your Honors, to be discussed under these two counts with respect to my client, have such a fundamental importance that it would be shirking the issue if one were to solve it by an argument about words, initials, and telegram distribution lists. The prosecution cannot prove that the defendant Ritter took part in even a single political discussion on fundamental questions, or in a decision bearing on the beginning or expansion of the war. We remember how carefully the International Military Tribunal examined this question with respect to each of the then major defendants, and how narrowly it circumscribed the concept of positive guilt. Ambassador Ritter was neither a Minister nor a member of the General Staff. He was a functionary who had

* Case 7, "The Hostage Case," United States *vs.* Wilhelm List, et al., volume XI, this series.

no influence on political decisions and the formulation of military plans.

What he had to do during a short phase of the war was—as I shall show—to arrange for the exchange of opinions between von Ribbentrop and the OKW, and sometimes to inform the foreign missions of the Reich, by order of the Reich Foreign Minister. His activity was essentially a technical function, and General Taylor acknowledged that fact very correctly in his opening statement when he took us over the Wilhelmstrasse in Berlin and introduced us to the men who are said to have been von Ribbentrop's direct subordinates in the shaping of foreign policy. Ambassador Ritter's name was not among them.

That is the objective aspect which I shall explain. In addition, I shall explain, through the presentation of my documents, the political-military situation in the Balkans, and shall read out documents, emanating from Germany's enemies, showing that in this war it was not only Germany who looked toward the Balkans.

As regards Ritter's participation in the war against Russia the prosecution's evidence has somehow embarrassed me a little. Whilst from the evidence submitted by the prosecution, with respect to the war in the Balkans, at least a certain amount of activity on the part of Ritter can be seen, nothing of the sort can be found with respect to Russia. Not a single document of probative value has indeed been offered for any activity of Ritter's connected with the preparation of the war, for it can hardly be assumed that the prosecution will use, for instance, Ritter's note of 13 March 1941, stating that the OKW had asked for the termination of the activity of various Russian commissions on German soil by a certain date, or some other aphorisms of a similar kind, in its effort to prove Ritter's active participation in the enterprise of an aggressive war against Russia.

The idea that Ritter, the expert on trade policy, who knew the Russian industrial potential, and had been for decades the champion of German-Russian collaboration, is supposed to have helped initiate the war against Russia, is rather surprising.

That Germany should have sought war with the United States of America is hard to understand. Ambassador Ritter, as we shall see, never was a party to such a piece of folly. The prosecution witness Reinicke,* a former officer of the German Naval Command, who was to prove this, failed and could not maintain his assertions under cross-examination.

I would not, at this juncture, like to get entangled in details with respect to these crimes. When Your Honors decide on the responsibility of an official, you will be faced, in juridical as well

* Testimony is recorded in mimeographed transcript (16 Feb. 1948), pages 1901–1922.

as in political respects, by a far more difficult task than the one that faced the International Military Tribunal in 1947. What was at stake then was the fate of statesmen, politicians and political gamblers. They had to pay with their lives for their gamble with peace, the most precious good [Rechtsgut] nations possess. This could be of purpose if it was not only retribution for a wrong done before, but at the same time it was an example and a warning for the future. The Tribunal knows the objections which have been raised by noted jurists against the establishment of crimes against peace from the point of view of the *ex post facto* principle. The Tribunal also knows that through the development of the international situation since the end of the last war, the world has, unfortunately, not been confirmed in its belief that future wars can be avoided by solemn statutes and threats of high penalties. They can only be avoided if, by carefully balancing the interests of all the peoples, the state is reached where force will have to bow down to law on its own accord. This knowledge does not make the tasks and the responsibility of the Tribunal any easier. But it sheds light on its problems. Your Honors will have to decide for the first time in the history of the peoples the fundamental question as to whether and how far it is of purpose and legal to apply the interdictions of the international penal code with respect to facts constituting a crime against peace, not only to statesmen and politicians, but also to the officials of a state. This decision reaches far more into the future than it goes back into the past, and transcends the fate of the men who stand arraigned in this case. Officials, in nearly all the nations of the world, live in a tradition which, in spite of changing governments, in the interest of the preservation of the concept and continuity of the state, has bred into them the idea of duty. As long as international law recognizes and guarantees national statehood, it will have to put up with the fact that the officials of the states obey their governments. The official may in his action—though it may not always become apparent to him —be faced by the alternative either to follow his government or the principles of international law which are not always unequivocally defined. He may, thus, be faced with the alternative either to commit a breach of faith toward his state, which is punishable all over the world as treason, or to commit a breach of international law, which has never yet held a state official responsible for the wars of his government. If, after the decision as to war or peace has been taken, he then follows his government, can the question of his personal responsibility and his personal guilt still be raised?

Under count three Ambassador Ritter is charged with partici-

pation in war crimes against prisoners of war. The prosecution has had it stated through its witness, Dr. Albrecht, Head of the Foreign Office Legal Division, that the treatment of foreign prisoners of war in Germany was the exclusive responsibility of the OKW (*NG–4276, Pros. Ex. 1191*). According to this, and this is a matter of course, the responsibility for the treatment of prisoners of war had to be borne by the Wehrmacht. As far as the Foreign Office took any part in it, it merely concerned the diplomatic treatment of an international incident. The many thousands of individual cases which were dealt with during the war—between the OKW and the Foreign Office—were exclusively dealt with by the Legal Division. The few exceptional cases, too, in which Ritter's name appears, were dealt with, and the responsibility was always borne—as the prosecution's evidence already shows and as I shall point out in greater detail—exclusively by the Legal Division, and Ritter's duty merely consisted in making sure that agreement existed between the Foreign Office and Keitel or in bringing it about, and this, too, only if he had a special order from the Minister.

The prosecution has presented four individual cases from which it seeks to derive criminal charges against Ambassador Ritter. In the opinion of the defense these cases do not constitute crimes under [Control Council] Law No. 10, even according to the prosecution's own evidence.

The internal deliberations of the Foreign Office with respect to the inquiry of the OKW on the treatment of Allied fliers never reached the stage of official intervention, as the prosecution's evidence has already shown, and as I shall describe in greater detail later. I shall prove that Hitler rejected a draft which von Ribbentrop submitted to him. This incident was thus finished. Ideas thought of by somebody in the Foreign Office, at any rate not by Ambassador Ritter, cannot be suppressed. We may not approve of them on moral grounds, but they still are irrelevant on legal grounds.

The next two cases in which British commandos in Norway, and British prisoners of war, after their escape from the Sagan camp, were shot on Hitler's order have, according to the prosecution's own evidence, the one thing in common that these crimes of the executive organs were committed without the knowledge of the Foreign Office. The prosecution, therefore, tries to make out that the notes which were issued later, and the contents of a "warning" which was to be posted in the prisoner of war camps, without it being proven that this was really done, were criminal. The prosecution wants, thereby, to establish some sort of connection to the crimes of other agencies committed in the

past, or at least throwing out some dark hints for the future. In the opinion of the defense this attempt has, however, already met its doom. Even if these notes, one of which we do not yet know, were positively false, and if one believes that their addressees had so little knowledge of diplomatic language as the prosecution seems to think, they would still not be criminal for reasons which we shall describe later. Or does the prosecution seriously entertain the opinion that in the diplomatic intercourse of the peoples every little deviation from the narrow path of truth—which, as I shall show, has not even occurred—already constitutes a punishable wrong? If this were so, it would indeed be ideal. International penal law, however, is firmly planted on realities. During the statement of my case I will, I hope, clarify matters and remove all doubts.

What finally concerns the regrettable case of the killing of the French general, Mesny, in the last days of the war, the whole matter—Your Honors will remember—has already been amply dealt with during the prosecution's statement of the case.

The crown witness of the prosecution, Wagner, who should not be unknown to Your Honors for other reasons, became a witness for the defense in the course of the cross-examination. The pillars, with which he wanted in his affidavit (*NG–3658, Pros. Ex. 1250*) to buttress the incomplete documentary evidence, have broken down. Beyond this, he has made it evident that in the execution of his orders he was never subordinated to Ambassador Ritter. The prosecution's own evidence, as explained by him, shows already now that Ambassador Ritter did not know at all the decisive documents on the progress of those discussions. I shall further prove that he cannot ever have known them.

The rest of the evidence submitted under count three, which evidently only serves as a frame, as for instance, the release of the American Government from its position as protecting power for French prisoners of war, I shall pass over for the moment. I shall comment on it later, all the more since the prosecution's witness, Dr. Albrecht, has already explained the reasons for this measure too.

Under count five the prosecution charges Ambassador Ritter with participation in war crimes and crimes against humanity committed against nationals of the territories occupied by Germany. The cases involved here are mainly the so-called shootings of hostages or reprisal measures in the occupied territories and the treatment of Jews. I want for the moment to leave it undecided whether, and if so, what part, the Foreign Office had in these measures of the executive. As regards the shootings of hostages and reprisal measures, the prosecution's evidence no-

where shows his active participation. I cannot assume that the prosecution seriously considers that the passing on of a piece of information of the OKW, that had reached him, to the department of the Foreign Office, or to his Minister, constitutes a crime. We shall see that Ritter even made repeated offers to prevent or check these measures.

Regarding the persecution of the Jews, again according to the evidence of the prosecution, the same picture emerges as a whole. The prosecution has submitted volumes full of documents, above all those purporting to show the participation of the Foreign Office in the general program concerning the persecution of Jews, in which Ritter's name is not even mentioned at all. It may be remarked that he was not charged at all under count four, which has been dropped in the meanwhile. All this will not surprise those who have taken due notice of the exceptional position that Ritter occupied, that is, his complete independence of the departments of the Foreign Office. They will ask themselves what a man whose only duty was the maintenance of connections with the chief of the OKW, had to do with questions of the treatment of Jews, especially as von Ribbentrop already had special liaison officers for Himmler, first the head of the division "Germany", Under State Secretary Luther, and later the head of group Inland II, Wagner.

This impression may only be deceptive with regard to Hungary if one considers the prosecution's documents, among which we find several telegrams which the German Ambassador in Hungary had sent to the Reich Foreign Minister "via Ambassador Ritter." I shall, therefore, in my statement of the case devote some more time to this matter, and shall state the reasons for this exception to the rule. I shall prove that even during the short period in which some telegrams from Budapest bear the remark "via Ambassador Ritter," there was no such thing as jurisdiction exercised by Ritter, or any order of von Ribbentrop's for Ritter to deal with the Jewish question. The documents presented so far show already that these actions were regularly dealt with by other people.

Under counts six and seven of the indictment, Ritter is charged with participation in the so-called spoliation of foreign countries, and in the so-called forced labor program. In view of the completely inadequate evidence presented by the prosecution, they have already been struck out on my motion. I beg to pass over count seven because of the lack of evidence submitted by the prosecution.

Your Honors, during the short introductory survey of the case I have not even as much as mentioned the personality of my client.

This was not done because I thought that this question would have no importance for you for your judgment. On the contrary, before you pronounce your verdict, you will sift files and documents and examine the plans of German politics. In the final analysis, however, you will apply to the individual the yardstick with which you measure personal guilt. This requires, by its very nature, a profound knowledge of the personality of a man whom the prosecution wants to brand as a war criminal. I did not deem it necessary to mention the personality of my client in particular so far, and have submitted but scant evidence about Ritter to Your Honors, for the simple reason that the personal, and particularly the political integrity of my client seemed to me to be beyond any doubt.

Ambassador Ritter—and prosecution and defense are all agreed on this point—never was a man of the Party. Hitler called him a "democrat;" he was not fanatical enough for von Ribbentrop; Kaltenbrunner spoke of him as a "red brother." The Gestapo sent spies after him even as far as Rio, and the Party blacklisted him. The honorary titles and uniforms of the Party never reached him. National Socialist ideology was alien to him.

After his applications for retirement had been refused repeatedly, he remained at his post when war broke out. He did not want to serve a Party program, but his people.

The fate of this man, who had reached the climax of his life and professional career under democracy, may appear tragic in view of the course things took. But does it comprise the elements of a personal guilt?

This is what Your Honors will have to decide.

I. Opening Statement for Defendant von Erdmannsdorff[1]

DR. VORWERK (counsel for defendant von Erdmannsdorff): May it please the Tribunal. In accordance with the procedure heretofore followed, the defendant von Erdmannsdorff is the next in order to be called upon to either take the witness stand himself or to produce other evidence for his defense. After careful consideration the defense has concluded that the prosecution has failed to make out a *prima facie* case against him, and therefore the defense now rests.[2]

Even if it could be held that a *prima facie* case has been made out, it is refuted by the evidence presented by the prosecution

[1] Transcript page 12525, 16 July 1948.

[2] The defendant was found not guilty on all charges.

itself and by the general testimony offered by the several defendants, their witnesses, and the documents which have been produced thus far. No useful purpose would be served by repetition or the further prolongation of this trial. We are doing everything possible to cooperate with this Tribunal to expedite the trial.

We are of the opinion that in a criminal action where there are several defendants, and one defendant rests his case, the innocence or guilt of that defendant must be judged upon the testimony adduced up to the time he rested his case, and that anything said or done thereafter, either by the prosecution or codefendants, does not involve him. It is for this reason that we respectfully ask this Tribunal not to consider any testimony which may be hereafter introduced as being against the defendant von Erdmannsdorff.

If the Court agrees with the position we have taken, this defendant will not participate in any further proceedings in this trial except by a written and oral closing speech at the conclusion of the case. We trust we have made our position clear. We rest our case, and understand that there can be no rebuttal testimony introduced by the prosecution against our client, and that evidence introduced by the several defendants to follow will not bear on the guilt or innocence of our client.

J. Opening Statement for Defendant Edmund Veesenmayer*

DR. DOETZER (counsel for defendant Veesenmayer): May it please the Tribunal.

When you pronounce judgment this autumn in this trial it will be the 300th anniversary of the day when the European Thirty Years' War—started by a conflict over religions—ended with the peace treaties of Osnabrueck and Muenster. After frightful atrocities and destruction, committed in the name of God, a general amnesty was agreed upon under Article II of the Westphalian Peace Treaty. "All misdeeds should be buried in eternal oblivion" to assure the Christian and eternal peace pronounced under Article I. This "eternal peace"—and with it a clear denial of war as such—"should reign among the former belligerents."

In the subsequent period we find similar international agreements in later peace treaties. They merely represent a different expression of the concept of Pope Innocent I in the *corpus juris canonici* concerning amnesty after military conflicts. The vic-

* Transcript pages 13053–13061, 31 July 1948, Extracts from the closing statement for defendant Veesenmayer are reproduced in section XIII, volume XIV. The final statement of defendant Veesenmayer to the Tribunal appears in section XIV, volume XIV, this series.

torious powers have already abandoned this course of international development, and even before concluding any peace treaty they promulgated the London Agreement and Control Council Law No. 10 for the vanquished. Thus, for the first time in the history of nations this presented tribunals of the victorious powers with the task of ascertaining the guilt or innocence of members of the vanquished nations on the charge of crimes against peace and crimes against humanity.

One of the first forerunners of this type is the peace treaty of Versailles, which ascribed exclusive guilt for the First World War to the vanquished. Only a short time later misgivings about the correctness of this were being expressed in speeches and writings, but it was only after more than 20 years that final definite and decisive evidence was found in the archives of the Belgrade government, namely the written confession of the Serbian colonel, Dragutin Dimitrijevic, concerning the assassination of the heir to the Austrian throne, and the influence exerted, the advice given, and the honor paid to the assassins by the Russian Military Attaché in Belgrade, Colonel Artamnov.

From this experience there arises for me, as defense counsel, a political task which cannot be fulfilled by juridical means, since the politicians who were the actual actors in this world event are not available as witnesses and are present in Nuernberg only as phantoms. Hitler alone appears in certain prosecution documents, which have been challenged and objected to in part. We, however, do not know the true thoughts and decisions either of Stalin or of other Eastern politicians, nor are we in a position to establish beyond any doubt the real intentions and decisions of the former English Prime Minister, Churchill, or those of the late president of your country, Roosevelt. Even though, thanks to this Tribunal, the defense for the first time has been allowed to consult captured documents from the archives of the Foreign Office, the archives of the signatory powers of the Control Council Law [No. 10] are still not accessible to us. Just as before the International Military Tribunal, in these proceedings, too, nearly all the written, and all the oral testimony of the leading men in world politics are lacking. Therefore I am not certain whether Stalin's statements on the eve of the Soviet elections in February 1946 are necessarily correct, when he said: "It would be wrong to think that the Second World War was caused by accident or by the actions of this or that statesman, although there is no doubt that mistakes were made. In reality it arose as the unavoidable result of the international economic and political forces on the basis of modern monopolistic capitalism." Nor am I able to say whether the former English Prime Minister, Churchill,

would confirm under oath what he said in his speech of 6 March 1946, at Fulton:

> "Never in history was there a war more easily to be prevented by timely action than the one which has just laid waste such a great part of the earth. It could, I believe, have been prevented without firing a single shot, and Germany could today be powerful, happy and honored; but no one wanted to listen and we were all, one by one, drawn into the terrible maelstrom."

If we only compare these two statements, I believe we are justified in concluding that they have little in common. Both, however, touch upon the core of this trial: the exclusive guilt of Hitler and his military and political advisers for the outbreak of the Second World War. With due respect to the caution imposed on me by my work as a scholar and a judge, as well as my military service at the front in this war, I believe that only the following is certain: Murder, destruction and atrocities characterized the war. Millions of soldiers and civilians fell, believing in the righteousness of the war of their nation and state. Millions were exterminated, gassed, burned to death in the conflagrations caused by the incendiary and atom bombs, driven from hearth and home, dragged off to concentration camps, forced to work under the most inhumane conditions. Demons had mastery over men, time and space, and a horrible inferno left its traces.

It was no fight for religion, like the Thirty Years' War, but the consequences were the same.

Was it a fight of ideologies, a fight of the East and its allied democracies against national socialism, which, according to Goebbels, aimed at a German democracy? One might be inclined to believe this if one judges the events since 1945 as a struggle between the Eastern and the Western World which continues to shake the world community to its very foundations, and makes the individual's fear for his life the outstanding characteristic of our days. Moreover, it seems certain that the bloody initial struggles which eventually led to this world-wide war, were already decided as early as after World War I. Out of the clash of Communist, Socialist, National Socialist and Capitalist groups, the idea was born in Germany to overcome class struggle through a synthesis of nationalism and socialism. Thus, Marxist ideology as adhered to by the Bolshevist state, and the Capitalist ideology of the Western democracies were joined by a third, that of national socialism, which in the course of its development manifested itself in an evolutionary and revolutionary form as far as German domestic policy was concerned. This process, with all

its symptoms, was watched by the entire world, either with approval, with disapproval, or with indifference. It calmly watched the man of the people, Hitler, becoming the omnipotent dictator of Germany.

But who would be willing to decide at this point whether the basic conflict which caused this world war was the struggle for these three ideologies, although it must be admitted that there are many factors which speak for such a view.

Ideologically, national socialism is dead.

The ideological struggle, however, between East and West goes on, and the goal of a world community is very remote, despite the fact that humanity has been longing for this for two thousand years.

In the name of this one world community, constantly aimed at but never materialized, the American prosecuting authorities conduct this trial. In this they admittedly appeal to the moral principles of the civilized world, but the eternal love and the perpetual preparedness for sacrifices for their fatherland, inherent in the Germans, terrorized by Hitler and his close circle of collaborators, are disregarded by them.

In their language the prosecution rarely distinguish between authority, law, ethics, and morals, as it would correspond to our continental European legal concept.

In this courtroom it sometimes seems that two entirely different worlds face each other, and this situation reminds me of one of the most striking and profound problems of jurisdiction, which in the history of law is termed "the claim of the Roman Cato." When Cato as an old man was charged with having committed an offense, he said in his own behalf that one could only defend oneself before those people with whom one had lived contemporaneously. Thus the struggle for truth and clarity in Nuernberg very often automatically becomes a matter of legal routine and reason, as otherwise it would break our hearts. Again and again we are confronted with the question whether it is our lot at all to get at the truth, and the answer we get is that only God can find the ultimate truth, and that it is for us merely to nurse a constant urge towards truth limited by our perpetual errors.

Rarely during my professional career have I had a stronger feeling of my own inadequacy and inability to contribute my own small share towards the truth than in this political trial. It has never been clearer to me that the prosecuting authorities are not willing to value the good intentions of the defendants—I mean here the good intentions in the sense of Kant, who is deemed good by the entire world not for what he has caused and effected,

not for his ability to achieve an aim—but solely for intentions which are good *per se.*

It is not voluntary self-restraint on my part—in contrast to the statements of your compatriot, Justice Holmes, about the tasks of a judge—if in the defense of the defendant Veesenmayer I limit myself to thinking along legal lines and to considering the facts and the law; it is rather the consequence of a given situation in which I, as a member of a vanquished people, am allowed to plead before your Tribunal.

The American prosecuting authorities have charged my client with counts one, two, five, seven, and eight, and they base their charges on Control Council Law No. 10. As has been done on various occasions during the Nuernberg trials, I shall examine during my defense the consistency of this law with international law, and the legal principles of the civilized world. My objections will be expressed in the following thesis:

1. In view of their history of origin and their actual application, the London Charter and Control Council Law No. 10 do not constitute a generally binding international penal law but, at most, a law based on treaties between nations which is not generally binding.

2. The rules are not universal. Only some of the states which belong to the community of international law joined the London Agreement. Control Council Law No. 10 is signed only by the signatory powers.

3. The rules are not reciprocal. Neither the London Agreement nor Control Council Law No. 10 provide for the punishment of those actions committed on the part of the victors.

4. The rules create special courts, namely *ad hoc* courts, to judge on one occasion certain perpetrators for certain deeds.

5. The rules violate important, generally recognized principles of justice, including the principle *nulla poena sine lege,* and exclude the justification or excuse of action upon orders.

6. The London Charter and Control Council Law No. 10 introduce the trial of individual cases. If one affirms the international legal validity of Control Council Law No. 10, further legal problems arise due to the position of my client in Hungary, which was allied to Germany, which I shall summarize in the following defense theory:

(*a*) International law prohibits the punishment of a diplomatic agent by the country according hospitality. Trial and sentence by the courts of the country according hospitality constitute a violation of international law. International law desists from claim for trial against the minister who, like the judges, is immune from the point of international law.

(*b*) War crimes can be committed only against military opponents but not against members of an allied country.

(*c*) Crimes against humanity perpetrated in Hungary are only then punishable if they were committed in pursuit of a plan of aggression. If any different opinion were held, then Control Council Law No. 10 would provide the authority for trial and sentence in respects not authorized to the International Military Tribunal, as shown with sufficient clarity in the judgment of the International Military Tribunal in the case against the defendant Schirach. In the course of my case-in-chief I submitted to the Commission six document books in behalf of my client Dr. Veesenmayer, and two for the general defense. A few further documents will still be referred to and introduced subsequently. I shall call the defendant to the witness stand before the Tribunal only because it has been impossible to find the residence of important key witnesses for the defense in spite of all efforts to locate them. Therefore, the defense is only a partial one and will be full of gaps. It will reveal how a young German scientist and convinced National Socialist, a man of intuitive understanding for political interrelations, worked, first of all, as intelligence man for his chief, Keppler, in Slovakia, and later for the Foreign Office in Danzig. Furthermore, it will reveal how he carried out the commissions assigned to him by the Foreign Office in Croatia, Serbia, Hungary, and Slovakia, having been drafted on an emergency status and holding no rank or title, and receiving no pay from the Foreign Office, until he finally became Minister and Plenipotentiary in Hungary, in the service of his beloved Fatherland, a Fatherland which was in the last stage of ruin and defeat. Thus he became a representative of his country in a land which had the battle front on its very threshhold, and whose eastern part was already part of the operational area. His work there was guided only by the thought of helping his comrades who were fighting desperately against the overwhelming power of the Red army. Dr. Veesenmayer, an unknown German intelligence man in the very front lines, and even later when he became Minister, was a man who stood alone. He met with the same fate as many men of other nations who were assigned similar tasks, namely, the constant rejection of his own understanding, great distinction in valor, and the ingratitude of his government.

If you, Your Honors, will be kind enough to examine the facts of this trial, may I, as an old soldier, request you not to forget, for the sake of my comrades, that this man moved along a lonely ridge between life and death in his work, day by day, year by year, motivated by his love for Germany, and moved by the thought of achieving a better European order.

Mr. President, before I call the defendant into the witness stand, subject to your approval, I would like to say that my case-in-chief on behalf of Veesenmayer, referring to counts one, two and eight of the indictment, has been terminated as far as the production of evidence is concerned. In view of the statements that I have just made it will not be necessary to hear him on these points because it would only be repetitious and would only unnecessarily prolong the trial. Therefore, I ask Your Honors kindly to permit me to call Dr. Veesenmayer as a witness on his own behalf with reference to counts five and seven of the indictment only.

K. Opening Statement for Defendant Hans Heinrich Lammers[1]

DR. SEIDL (counsel for defendant Lammers): Your Honors. The indictment charges the defendant Dr. Hans Heinrich Lammers with the planning, preparation and waging of wars of aggression and with the participation in war crimes and in crimes against humanity. The indictment considers the former chief of the Reich Chancellery "the *de facto* Chancellor of Hitler, who coordinated at the highest level the planning and preparation required for the total mobilization of the German Reich, and as Hitler's chief legislative agent, who signed the most important decrees for the planning, preparation, initiation and waging of wars of aggression" (par. 8 of the indictment). Other paragraphs of the indictment contain similar statements regarding the position of the defendant Dr. Lammers. The opening statement of the Chief of Counsel,[2] General Taylor, repeats these statements in grandiloquent words, but without any power of proving or convincing. In order to prove the opinion of the prosecution concerning the importance of the Reich Chancellery and its chief, the prosecution has submitted a great number of documents, which to discuss is out of place here.

The defense does not deny that the former chief of the Reich Chancellery held an important position within the hierarchy and the administration of the National Socialist Reich. The duties of the chief of the Reich Chancellery and the importance of his position were however mainly formal, and it would be completely wrong to regard the former Reich Minister Dr. Lammers as a man whose position could be compared even remotely to the position of a chancellor or vice-chancellor.

[1] Delivered on 3 September 1948 (Tr. pp. 19741–19762). Extracts from the closing statement for the defendant Lammers are reproduced in section XIII, and the final statement, section XIV, volume XIV this series.

[2] Reproduced above in section V B.

The question concerning the criminal responsibility of the defendant Dr. Lammers depends to a great extent on the evaluation of the *de facto* and *de jure* position of the chief of the Reich Chancellery. Under these circumstances it is obvious that the entire defense hinges upon the answer to the question of what part the chief of the Reich Chancellery played in the events and occurrences of the Third Reich which are the subject of the indictment. In order to judge the real importance of the Reich Chancellery and the tasks which it had to perform, it seems to be advisable to give a short historical review of the development of this chancellery. The Reich Chancellery was founded by Bismarck in 1878. It was not a special department, and as a secretariat of the Reich Chancellor it only had to handle his correspondence with the Reich offices. The chancellor himself was the chief of the Reich Chancellery. A senior counsellor, who only in 1906 obtained the rank of an Under State Secretary, was in charge of the office. Later, in 1920, during the time of the Weimar Republic, he obtained the rank of a State Secretary although there was not the slightest change in his position and his duties as chief of this chancellery. The evidence will show that in the Third Reich, too, there was on the whole no change in the position of the chief of the Reich Chancellery, and also not after the time of Dr. Lammers' appointment to the position of a Reich Minister.

Also after Adolf Hitler's installation as Reich Chancellor on 30 January 1933, the Reich Chancellery remained the agency which handled the correspondence between the Fuehrer and Reich Chancellor, and the officials directly subordinated to him, and it conducted formal procedure of legislation in the wider sense, *viz,* as far as laws and decrees of the Fuehrer and Fuehrer directives were concerned. Naturally, when carrying out these tasks, political points of view had to be taken into consideration too. The evidence will prove, however, that the defendant Dr. Lammers, as Chief of the Reich Chancellery, had no influence on actual political decisions, and that the decisions concerning the home and foreign policy, as well as concerning military questions, were either made by the Fuehrer himself or after consultation with a few important persons belonging to Adolf Hitler's closer circle. Undoubtedly the defendant Dr. Lammers did not belong to this circle. This fact has been proven beyond any reasonable doubt in the IMT Trial, in which Dr. Lammers was not indicted, which would have been to be expected had he really been *"de facto* Chancellor." In its document book 1 the defense has submitted six statements concerning interrogations which were made by the prosecution after the conclusion of the taking of evidence,

and before the pronouncement of the IMT judgment in September 1946. They concern in detail interrogations of the Reich Marshal and Plenipotentiary for the Four Year Plan, Hermann Goering; the Chief of the OKW, Field Marshal Wilhelm Keitel; the Plenipotentiary for the Economy, Walther Funk; the Reich Minister of Economics and Plenipotentiary for War Economy, Dr. Hjalmar Schacht; and the Reich Foreign Minister, von Neurath. The position of these persons in the Third Reich was such that they had a clear judgment concerning the tasks and the importance of the Reich Chancellery and its chief, and obviously this fact was the reason why they were interrogated by the prosecution. All these former Reich Ministers and military commanders say the same thing, namely, that the Reich Chancellery was not a special department, but merely, as a secretariat of the Fuehrer and Reich Chancellor, had to handle the correspondence with the other Reich offices, and had only a formal function within the government and the administration of the Third Reich. According to the testimonies of these witnesses, the defendant Dr. Lammers never had and never exercised any decisive political influence.

In this connection we would like to draw the Tribunal's attention to the plan for the distribution of work which has been submitted by the prosecution as Exhibit 419 (*NG–3811 in doc. bk. 29 A*). The defense cross-examined the witness Dr. Gottfried Boley who confirmed on oath the correctness of this distribution plan, correcting it in the attached note. This cross-examination showed that the Reich Chancellery had only about ten or twelve higher officials at its disposal during the war, and that three sections (which it would be more correct to call work groups) out of a total of five, were managed by only one higher official. If one considers that each work group handled the incoming correspondence of ten to fifteen Reich Ministries and other Supreme Reich Offices, the comparison between the number of employees available and the Reich Ministries assigned to each work group shows that the tasks of the Reich Chancellery and its chief were not objective but that it was only a matter of formal treatment.

Evidence will also show that the Chief of the Reich Chancellery, be it as State Secretary or as Reich Minister, had fewer competencies of his own than any State Secretary in a Reich Ministry. A State Secretary in a Reich Ministry was the permanent deputy of the minister both during his presence in the office and when he was absent. He signed "as deputy" for his minister. The defendant Dr. Lammers, however, was neither the deputy of the Fuehrer in his capacity as Reich Chancellor, nor did he sign as

his deputy below the designation of the Reich Chancellor. The entire correspondence of the defendant Dr. Lammers was carried on under his own official title as State Secretary, later as Reich Minister and Chief of the Reich Chancellery, and shows that he did not make any decision in the name of the Fuehrer or as his deputy, but only passed on the Fuehrer directives and orders on his request.

A change took place only insofar as the defendant Dr. Lammers, after he was appointed Reich Minister, about 1939, as a rule cosigned laws, Fuehrer decrees, and Fuehrer directives, which he had done only in exceptional cases before. I shall discuss the meaning of this cosigning later on.*

Of what nature were the detailed duties of the Chief of the Reich Chancellery?

His main duty was the formal conduct of the procedure of legislation. The laws—here we only talk of the laws promulgated by the Reich government by virtue of the Enabling Act of 1933 (*PS–2001, Pros. Ex. 1151*)—were prepared by the Reich minister having decisive authority. The draft of the bill was submitted by the competent Reich minister to the Chief of the Reich Chancellery together with the required number of copies of the bill, and in this connection the Chief of the Reich Chancellery had no other duty but that of accepting the draft of the bill for the Reich Chancellery. As can be seen from the IMT judgment, there were two methods used in making decisions; to wit, orally, by the Reich Cabinet, and the written method of circularizing. Since at the end of 1937 the cabinet sessions were stopped, only the latter procedure came into question. The Chief of the Reich Chancellery was not authorized to make any substantive decision, and his real duty is well characterized in a document which has been submitted by the prosecution as Exhibit 426 (*NG–1230, doc. bk. 29 A*). This is a Fuehrer decree repeating previous identical directives concerning the participation of the Reich Minister and Chief of the Reich Chancellery in the preparation of decrees of the Fuehrer. This decree runs as follows:

> "The Reich Minister and Chief of the Reich Chancellery is personally responsible to me that in all matters belonging to the sphere of civil state administration which are intended for submission to me, the persons concerned will be given a timely and adequate hearing. The Reich Minister and Chief of the

* A large number of laws and decrees bearing the signature of defendant Lammers are reproduced in the materials on the "Justice Case," United States *vs.* Josef Altstoetter, et al., volume III, this series. (See sec. IV B, vol. III, entitled "Selected Laws and Decrees, 1933–1944.") The activities of defendant Lammers frequently came into issue in the "Justice Case."

Reich Chancellery, being the only one to cosign my decrees and orders concerning the civil state administration, accepts by his cosigning the responsibility that this procedure has been carried out."

The cooperation of the defendant Dr. Lammers in legislation by means of Fuehrer decrees and Fuehrer orders took place in a similar way as was the case with laws. The defense has, as Document 50, included in its document book 2 a legal opinion of the University Professor Dr. Hermann Jahrreiss concerning "the position of the Chief of the Reich Chancellery in the hierarchy of the Hitler regime," and I am referring to the contents of this opinion. This is Lammers Defense Exhibit 8, to be found in document book 2, as Lammers Document 50.

In addition to the formal conduct of legislation, it was also incumbent on the Chief of the Reich Chancellery to coordinate on various occasions the Reich ministries and the Reich offices in the field of administrative organization. This activity not only had to be performed when defining the scope of competencies of the various Reich ministries, but especially when the Fuehrer appointed Reich commissioners and other delegates, and assigned duties to them for which already another department was or would have been competent, if new tasks were involved. The evidence will show in detail what the nature of the duties of the defendant Dr. Lammers was, and also the scope of his competencies.

The so-called State Manuals—without any knowledge and consideration of the conditions which have changed in the meantime—repeatedly mention it as one of the tasks of the duties of the Chief of the Reich Chancellery that he has to instruct and advise the Reich Chanceller constantly and currently with regard to the political situation and the state of the legislative and administrative work. It seems that the prosecution wants to understand the duties of the Chief of the Reich Chancellery as lying in that direction. Whoever has, however, only a slight conception of the conditions of political power and constitutional law in the National Socialist State, could not harbor the slightest doubt that Hitler, in his capacity as Fuehrer and Reich Chancellor, would not let himself be "informed" or "advised" by anybody concerning questions of over-all policy—and surely least of all by a person so lacking in dynamics as the defendant Dr. Lammers. This was very clearly set forth, moreover, in the IMT proceedings, and I refer in this connection—to offer only a single instance—to the testimony of the defendant Hermann Goering before the IMT. The evidence to be presented in this trial will show, in addition, that the defendant Dr. Lammers did not have, after August 1934,

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any opportunity at all to make regular reports to the Reich Chancellor, and that in the subsequent period there was frequently an interval of from six to eight weeks, and even more, between the various individual reports. On 24 September 1944 the defendant Dr. Lammers rendered his last report.

As already mentioned, under Bismarck as well as during the Weimar Republic and in the National Socialist State, the Reich Chancellery was the secretariat of the Reich Chancellor, and its duty was to take care of his correspondence, as the chief of the government, with the Reich ministries. In view of these tasks in all official matters, the only channels to the Fuehrer, as Reich Chancellor, should have been through the Chief of the Reich Chancellery, that is, all the correspondence with the Reich ministers, Reich commissioners, etc., should have passed through the hands of the Chief of the Reich Chancellery, and the latter should have been present when these officials made their oral reports to the Fuehrer, or at least he should have been informed about the subjects and outcome of these reports. The fact is that this did not happen. The evidence will show that the Chief of the Reich Chancellery was not called in at all concerning any important foreign political and military matters, and that, also in questions of home administration, decisions were frequently made without his being consulted in any way. To anyone who is able to judge even partially for himself the actual relations of power within the Third Reich, it is obvious that—to mention only a few instances—men like Reich Marshal Goering, Reich Minister Dr. Goebbels, Foreign Minister von Ribbentrop, the Reich Leader SS and subsequent Reich Minister Himmler, Reich Minister Speer, Reich Leader Bormann, and several others, did not get in touch with the Fuehrer through the Chief of the Reich Chancellery, but could go at any time directly to the Fuehrer for a hearing. The Chief of the Reich Chancellery was neither called in nor was he informed. If, however, he was informed, then it was only for some special reason, particularly where questions of formality were concerned, such as the drawing up of a Fuehrer decree. The great majority of the most important and significant matters of state, however, were just those which the above-mentioned officials took directly to the Fuehrer.

In addition, it falls within the purview of evidence to discuss what effect the elimination of the Reich Cabinet—its last meeting took place at the end of 1937—had upon the position of the Chief of the Reich Chancellery. After this date there was no longer a Reich government in the proper sense of the term, and the IMT did not hesitate to draw in its judgment the judicial conclusions which are based on these facts. After that time the

Reich ministers were nothing more than the highest administrative chiefs and no longer political ministers. In view of this political and constitutional situation there was no more room for a Chancellor or a Vice-Chancellor—even though the Chief of the Reich Chancellery might have held that rank *de facto* himself.

The evidence has already shown that the Reich Chancellery was only one of altogether four chancelleries available to the Fuehrer and Reich Chancellor for the fulfillment of his tasks. The other three chancelleries were the Presidential Chancellery under State Minister Dr. Meissner; the Party Chancellery headed by Reich Leader Bormann, and the Chancellery of the Fuehrer of the NSDAP, with Reich Leader Bouhler as chief. Accordingly, one could also describe the High Command of the Wehrmacht as such a chancellery, because it had to take care of all matters concerned with military administration. The evidence will make it clear that in the course of years, and especially during the war, the Party Chancellery assumed in matters of state such preponderance as to give its chief far greater importance than was enjoyed by the Chief of the Reich Chancellery. Martin Bormann, the head of the Party Chancellery, belonged with a few others to the Fuehrer's intimate circle, and he may have exercised some political influence upon him—if such influence was ever possible at all.

On the basis of what the evidence has shown, it can be said with certainty already now that the defendant Dr. Lammers played no part either in military matters nor in the field of foreign policy. This is made very clearly evident by the documents which the prosecution has submitted. It applies not only to the documents introduced by the prosecution in the IMT trial, but also to that evidence which the prosecution has offered in these proceedings against the State Secretaries and Department Chiefs of the Foreign Office. In particular, the defendant Dr. Lammers never attended any of the meetings which the Fuehrer had with the Chiefs of State, Chiefs of Government, and Foreign Ministers of almost all the European and a large number of non-European states. Especially the Chief of the Reich Chancellery did not attend any of those discussions the notes on which the International Military Tribunal described as essential for proving a common plan to prepare and wage an aggressive war. In this connection, I have in mind the meetings of 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939. The defendant Dr. Lammers was not only not present at these meetings but he also was never informed about the matters under discussion. The remainder of the documents submitted by the prosecution against the Foreign Office officials also make it unequivocally

clear that it was the Fuehrer and Reich Chancellor and the German Foreign Minister alone who decided questions of foreign policy, and that the Reich Chancellery did not take any part at all in the most important matters. If the Tribunal had those documents available which the prosecution has submitted in Case No. 12 against Field Marshal von Leeb and the other generals, it would then become abundantly clear that the Chief of the Reich Chancellery did not even in a single instance take part in coordinating military and foreign policy measures.

During the hearing of evidence, there will be an opportunity to throw light also on those rare cases where the participation and consent of the Chief of the Reich Chancellery was prescribed. Some Fuehrer laws, orders, and decrees, and especially those which relate to administrative simplification as necessitated by the total war effort, occasionally prescribed the department chief's duty to obtain the prior *consent* of the Reich Minister and Chief of the Reich Chancellery concerning certain measures to be taken on their own responsibility. The evidence will show that by this, apart from relieving the Fuehrer from attending to less important matters, it was intended as well as to realize the following two chief purposes:

First, to give the ministers concerned an opportunity to be heard and have their interests made known—again merely a formal duty.

Second, to enable the Fuehrer to exercise supervision, and if necessary, intervention in time. The Chief of the Reich Chancellery was, therefore, allowed to express his consent in important matters, only if he first assured himself of Hitler's approval —hence, again duties concerning which he was dependent upon the Fuehrer's decision—although to outward appearances he acted on his own authority.

The prosecution presented in evidence a large number of laws, decrees, orders, and other regulations and provisions issued by the Fuehrer which were cosigned by the defendant Dr. Lammers. Professor Dr. Jahrreiss in his legal opinion has expressed himself on the importance of this cosignature, and I am referring here to the contents of his statements. This is Lammers Defense Exhibit 8. The validity of a law, a Fuehrer order or decree, in no way depended upon the cosignature of the Chief of the Reich Chancellery. As has been shown by the already-mentioned decree concerning the participation of the Reich Minister and Chief of the Reich Chancellery with regard to the preparation of the Fuehrer decisions (*NG–1230, Pros. Ex. 426*), the defendant Dr. Lammers was merely responsible to the Fuehrer for seeing that—

(1) The contents of the law were adequately and accurately reported to him and were in accordance with his intentions.

(2) All ministers concerned were in agreement, and that other ministers did not raise any objections.

(3) All required legal procedures were observed.

What has been said concerning laws applies in the same manner also for the importance of the cosignature of Fuehrer orders and decrees. The evidence to be presented will prove that, according to the legal code which applied in a Fuehrer-State, the validity of a Fuehrer decree in no way depended upon any cosignature. The cosignature by the Chief of the Reich Chancellery merely had the significance of a documentation or certification. For the factual contents the Chief of the Reich Chancellery carried no other responsibility than the one already described.

The same also applies to the decrees of the Ministerial Council for the Defense of the Reich. This decree, too, was cosigned by the defendant Dr. Lammers, and this cosignature also has no other meaning than that shown by Prosecution Exhibit 426.

Counts one and two charge the defendant Dr. Lammers with having participated in the planning, preparation, and execution of aggressive wars and wars violating international agreements. On the basis of his position as Chief of the Reich Chancellery and the evidence presented, it may be said already with certainty that the defendant Dr. Lammers was not amongst those personalities who, according to the opinion of the International Military Tribunal, participated in such a common plan. I have referred to this fact already in my brief of 28 April 1948 where I moved that counts one and two of the indictment should be dropped insofar as they connect Dr. Lammers with the preparation and the waging of wars of aggression.

It is naturally impossible within the scope of this statement to touch upon all the legal questions in connection with counts one and two of the indictment. One thing in particular should, however, be emphasized—the defense denies now as before that there was a provision in international law at the outbreak of World War II according to which war as such was no longer a permissible means to settle grave international conflicts, but that war represented a punishable crime. The Kellogg-Briand Pact of 1928 does not permit of such an assumption; it "outlaws" war, we concede; it declares war to be unlawful. However, it is a maxim of penal law that a definite penalty be also provided for the commission of an act declared to be unlawful.

In the proceedings before the IMT, the defense already stated that this trial not only departs from a generally recognized legal

maxim in that all of the essential functions are united in the hands of one war party—this one party is judge and prosecution, creator of the penal provisions—but that, beyond this, at least one of the signatory powers to the London Agreement and the Charter for the IMT has become guilty of participating in an action forming the subject matter of the proceedings. The evidence before the IMT has shown that the Government of the Soviet Union concluded a secret treaty with the Reich government only a few days before the outbreak of the war, defining their particular sphere of interest in the territories lying between the two states and agreeing upon a line of demarcation for the territory of the Polish State. The contents of this treaty undoubtedly meet the specifications of Article 6 (*a*) of the IMT Charter and of Article 2 (*a*) of Control Council Law No. 10. The defense in this trial has now submitted 226 documents dealing with the development of the German-Soviet Russian relations from 1939 to 1941. These documents may be found in document books 6 to 12 for the defendant Dr. Lammers.

(Recess)

DR. SEIDL: May it please the Tribunal, I mentioned before that the defense has submitted 226 documents referring to 1939 to 1941. These documents are to be found in the Lammers [document] books 6 to 12. The evidence will prove that Dr. Lammers neither knew of the negotiations leading up to the abovementioned secret treaty of 23 August 1939 between Germany and the Soviet Union, nor had any knowledge of the negotiations which were conducted with the object of the Soviet Union joining the Tri-Partite Pact. He had no knowledge either of the further developments, and in particular of the reasons responsible for the failure of the negotiations. The contents of these documents have not only a direct bearing upon the evaluation of the knowledge and guilt of this defendant. These documents rather compel the defense not only to reexamine the legal basis of the London Agreement of 8 August 1945 and the IMT Charter which is an essential part of this agreement, but also to examine the question of how this fact imperils the legality of the IMT judgment and Control Council Law No. 10. I have examined all the pertinent legal questions in a trial brief which will be submitted to the Military Tribunal IV in the near future, and in which I have come to the following conclusions:

(1) By virtue of his power over the vanquished, the victor may take measures also for such actions in which he himself was more or less involved.

(2) However, the victor may not legally (*a*) set up a court as

a legislator, nor (*b*) sit in such a court as a judge for the "crimes" of the vanquished, if he himself has been an accessory to such crimes.

(3) Any acts in violation of this principle are null and void according to law.

(4) The following is, therefore, null and void according to the foregoing:

(*a*) The London Agreement, and the IMT Charter which forms an essential part thereof, insofar as the Soviet Union (General I. T. Nikitchenko and A. Trainin) had a share in ordering penal prosecution by virtue of Article 6a of the Charter for crimes against peace as the result of the invasion of Poland in the fall of 1939, and the war of aggression against this state;

(*b*) The Control Council Law No. 10, which relies on the London Agreement, insofar as the Soviet Union (Marshal Zhukov) had a share in ordering penal prosecution under Article II, paragraph 1 (*a*) on the basis of the above-mentioned acts;

(*c*) The IMT judgment of 30 September—1 October 1946 in the major Nuernberg trial, insofar as judges of the Soviet Union (General Nikitchenko and Lieutenant Colonel Volchkov) have had a share in passing sentence on a defendant for this crime.

(5) The question here is not whether and to what extent this partial nullity has the effect of nullifying the remaining parts of the IMT Charter, Control Council Law No. 10, and the IMT judgment of 30 September—1 October 1946.

In count three of the indictment, Dr. Lammers is charged with having had a share in the measures taken for the purpose of inciting the civilian population to lynch enemy fliers who were forced to bail out. This charge is unfounded. The contention of the prosecution relies principally upon two documents, submitted by the prosecution as [635–PS and 737–PS, Prosecution] Exhibits 1229 and 1231. The defense on their part intended to submit the document which was forwarded at that time to the Reich Minister of Justice with the defendant Dr. Lammers' letter of 4 June 1944. Bormann's circular letter, submitted by the prosecution as [057–PS] Exhibit No. 1230, is not identical with the circular letter which was actually attached to the defendant Dr. Lammers' letter of 4 June 1944. Without going into the particulars of the legal questions involved here, we would like to say this much now in this connection—even if we were to rely on the document submitted by the prosecution, the defendant Dr. Lammers could only understand from Bormann's circular letter that it concerned the question of quashing pending proceedings in lynch cases. He could not understand Reich Leader Bormann's letter to contain an appeal to the civilian population to resort

to lynchings in future cases. Such an assumption is already wrong if only for the reason that this circular letter was treated as a secret letter—namely, as not "to be made public"—and thus was accessible only to a limited circle of persons. The defendant Dr. Lammers' letter to the Reich Minister of Justice which, of course, was also treated as a "secret matter," was still less capable of being so interpreted.

In count five of the indictment the defendant Dr. Lammers is charged with having committed war crimes and crimes against humanity by having participated in atrocities and criminal acts against the civilian population. Insofar as this concerns the charge that Dr. Lammers had participated in the measures taken by the Reich Commissioner for the Strengthening of Germanism, it will be established by the evidence that the defendant Dr. Lammers had no competencies of his own either in this or in any other cases, although information might have reached him in some of the cases either through reports or in some other way. However, in connection with the legal evaluation of the resettling of parts of the population, it offers an opportunity to examine the basic legal question whether such settlements are to be considered criminal acts at all within the meaning of international law, in view of the decisions of Yalta and Potsdam of 1945 and the expulsion of more than 12 million Germans from their native homes in the East, which was carried out with the approval of the signatory powers to the London Agreement of 8 August 1945 and Control Council Law No. 10.

In count five of the indictment, the defendant Dr. Lammers is furthermore charged with having participated in a plan to exterminate the surviving European Jews. The evidence will establish that this charge is also unfounded and that the defendant Dr. Lammers did not commit any act which became the basis for subsequent measures taken by the organs of the Reich Security Main Office in the course of the so-called Final Solution of the Jewish Question. It seems to be appropriate, however, to point out the great danger lying in the fact that quite another meaning is attached today to the words "final solution," which is wholly different to the one that the defendant Dr. Lammers, and the other offices not directly involved, must have attached to them in 1942 and afterwards. To the extent that the defendant Dr. Lammers knew the circumstances at that time, the problem of the final solution of the Jewish question presented itself to him as follows:

(1) The evacuation of full Jews.

(2) The question of including half-Jews in the evacuation.

(3) The same question in regard to the so-called privileged Jews.

A program for the extermination of the Jews within the meaning of the indictment was not drawn up in the three meetings of 20 January 1942, 6 March 1942, and 27 October 1942, the records of which have been introduced by the prosecution as exhibits (*NG–2586, Pros. Ex. 1544; NG–2586–H, Pros. Ex. 1453; NG–2586–M, Pros. Ex. 1458*) because:

(1) In regard to the evacuation of full Jews, such a program not only existed already on 20 January 1942, but it was already being carried out by the organs of the Reich Security Main Office. Therefore, there could not have been any need to draw up such plans. Apart from this, the evidence presented by the prosecution does not allow the conclusion to be drawn from it that the defendant Dr. Lammers had initiated a measure—even a most insignificant one—which could be considered as having been the cause of the subsequent implementation of such a plan.

(2) In regard to including half Jews.

(3) Including the privileged Jews in the evacuation, and in regard to other measures taken against them, such as sterilization, a plan was never drawn up at any time.

The three meetings called by the Reich Security Main Office merely dealt with suggestions and proposals to be commented upon by the various departments later. Whether the departments made any comments, and the nature of them does not interest us here. In any case, the defendant Dr. Lammers did not comment favorably on them. On the contrary, he voiced his opposition to the proposals—as will be established by the evidence—and therefore did not participate in the drawing up of a program directed against the half-Jews and the privileged Jews, even if one were to assume that such a program were drawn up.

The evidence will show that the defendant Dr. Lammers reported five times to the Fuehrer on this matter. As a consequence of these reports the Fuehrer made decisions which—as will be established by the evidence—were of fundamental importance for the further treatment of the Jewish question.

Even if one were now inclined to assume that a program containing all three points for the final solution of the problem had been drawn up in the above-mentioned three meetings (evacuation of the full-Jews, the question of the half and the privileged Jews), the causal connection—insofar as it concerns the establishment of the guilt of the defendant Dr. Lammers—between such a program and its implementation has become severed by the Fuehrer decision brought about by Dr. Lammers, and the postponing of all three points of the problem of the "final solution."

In count six of the indictment charges are brought against the defendant Lammers of having committed war crimes and crimes against humanity inasfar as he participated in the spoliation of public and private property and in the exploitation of the territories occupied by German troops. In count seven the defendant Lammers is charged with participation in a program for deporting members of the civilian population of the occupied territories to slave labor. The question of the responsibility of the defendant Lammers in these two points, as well as in general, depends largely on the opinion formed of the position which he as the Chief of the Reich Chancellery, which had no authority of its own and was not a department, occupied within the system of government of the Third Reich. The final pleas of the defense will afford an opportunity to comment on a series of legal questions which, in connection with the actual practice of states after the close of the Second World War, especially in the occupied territories, will make the conformance of the respective penal clauses of the Charter of the IMT and Control Council Law No. 10 with the international law that was actually in force during the Second World War, seem doubtful at the very least.

In count eight the defendant Lammers finally is charged, as a member of the SS, with having belonged to an organization which the IMT had declared as criminal. The evidence for the charges in this count will reveal that the defendant Lammers did not join the SS voluntarily, but was made a member by order of the Fuehrer. He held a purely honorary position in the SS which he was given mainly to entitle him to wear the uniform.

Your Honors! In the present case, as in all the other cases before the Nuernberg Military Tribunals, the prosecution has attempted to supply the required evidence mainly by introducing documents which had been found in occupied Germany by the Allied Forces. The evidence was presented exclusively from the angle of incriminating the defendants. This was already clearly expressed by the Chief Prosecutor of the United States in the trial before the IMT, when he refused to submit any evidence which would have served to exonerate the defendants. In the later trials there has been no change in this practice, and frequently enough the defense learned of documents in the trials which in other proceedings would have served to exonerate the defendants on trial.

In German penal proceedings this way of showing proof would be inconceivable. According to the German Code of Criminal Procedure, it is the duty of the prosecution to establish the impartial truth upon which alone a verdict can be based, hence to ascertain not only facts which would incriminate, but also those

which would serve the purpose of exoneration, and also to be responsible for furnishing such proofs as might otherwise be lost (Art. 160, par. 2 of the German Code of Criminal Procedure).

It needs no special argument that, in view of these facts, the ascertainment of the truth and a just judgment are seriously jeopardized if the defense does not have access to all the documentary evidence which must be at its disposal in order that a definite historic event, constituting the subject of the trial, may be submitted to the court in its full extent and with all the essential documents. The defense has made this attempt, and we must openly declare that the attempt has failed. It was found impossible to get at the documents of the Reich Chancellery and look through them and utilize them from the viewpoint of the defense. Under these circumstances there remains only one thing for the defense to do, namely, to try to effect exoneration through the examination of witnesses. The central point of the evidence as a whole will therefore be the examination of the defendant on his own behalf. In addition we will examine the four most important officials of the Reich Chancellery who, in their capacity as Counsellors of the Reich Chancellery had charge of the departments B, C, D and E, and had compiled the records which were made the subject of the proceedings and were submitted—fragments only of some of them—by the prosecution. However, it must be stated with regret that the decision of the Court by which I am denied the right to question even the most important witnesses before the Court—a decision which, when carried out without exception, would violate one of the basic principles of orderly penal proceedings, namely the directness of the proceedings—has greatly increased the difficulties in the defense of my client and has thereby encroached upon his rights.

Your Honors!—No matter how one individually may look upon the position of the Chief of the Reich Chancellery, one thing is sure and the evidence will reveal it, namely, that during the most serious times and under the most difficult circumstances he had tasks to accomplish, which according to their nature certainly lay in a sphere of formality, but that in the fulfillment of these duties he endeavored, in the time of the gradual dissolution of the system of government, to uphold the idea of the constitutional state, and to prevent wrong whenever he heard of it and could do so by using what little political influence he had. The defendant Dr. Lammers tried before his appointment as Reich Minister, as well as afterwards, to follow a straight path and to fulfill the duties which the State demanded of him at a time when the foundations of the existence of the whole nation were at stake.

L. Opening Statement for Defendant Wilhelm Stuckart*

DR. VON STACKELBERG (counsel for defendant Stuckart): Your Honors:

1. Stuckart owes his seat in the dock to a fundamental error on the part of the prosecution. Obviously, the prosecution has been blinded by Stuckart's showy titles and by the pretentious names of his assignments. The prosecution has also been deceived by the number of documents which bear Stuckart's signature or mention his name, indicating what has repeatedly been referred to as Stuckart's vigor. So, the prosecution has introduced Dr. Stuckart to this Tribunal as one of the leading characters in the picture of Nazi crime.

The prosecution's way of viewing Dr. Stuckart may be satisfactory for political purposes. It is certainly not satisfactory for this Tribunal when it has to examine the question of Stuckart's criminal responsibility. The Tribunal will have to look behind the scene in order to find out what reality is behind the outward appearance.

The defense will prove that Dr. Stuckart was not a leading character—neither as a government official nor as a Party member, nor as an honorary SS officer. His vigor, untamed by the wisdom of old age, may have placed him in the spotlight more frequently than his colleagues. But it did not give him an influence or authority superior to his place in the hierarchy of the State. What is even more important—his activities, far from being criminal, were inspired by a sincere intent to do right and to prevent wrong.

2. First of all, what is the truth about Dr. Stuckart's position in the Ministry of the Interior?

a. In the Third Reich, none of the old ministries had any longer the importance one might presume from traditional conceptions. Hand in hand with Hitler's development into a dictator, the Party rose to be the only political factor and the controlling organ where all public institutions were concerned. On the other hand, the importance and influence of the old ministries diminished, their officials were defamed as bureaucrats and jurists and frequently they were slandered in public by Hitler himself. The position of the Ministry of the Interior was undermined to a specific degree. This ministry's functions were usurped by the Party in the first place. Moreover, Himmler succeeded in separating the police from the Ministry of the Interior. Thereby the ministry lost the

* Transcript pages 24124–24146, 1 October 1948. Extracts from the closing statement for the defendant Stuckart are reproduced in section XIII, and the final statement in section XIV, volume XIV, this series.

most important integrating element of a ministry of the interior, namely, executive power. No wonder the authority of its officials was reduced to insignificance.

b. In the Ministry of the Interior, Dr. Stuckart had the title of "State Secretary"; up to August 1943, however, he held—in theory as well as in fact—the position of a department head, and was, like all other department heads of the ministry, subordinated to the Minister's deputy, the State Secretary in charge, Pfundtner, and as the last authority to the Reich Minister of the Interior himself. Only advisory and executory functions were connected with the position of a department head. He had no authority of his own to make decisions. According to the civil service law and to the hierarchic ministerial constitution it was not the department heads, but the Minister, or even still higher authorities who were responsible for the acts of administration and legislation.

Dr. Stuckart was not the Minister's deputy. When occasionally he signed decrees or ordinances "as deputy," he did so upon the order of the Minister, not on his own authority. Neither the title "State Secretary" nor the form of signing "as deputy" was in the Third Reich indicative of the character of a real deputy.

In a number of cases the Ministry of the Interior was appointed as control agency for territories under German control, and Dr. Stuckart was appointed Director of the Central Agencies. Those Central Agencies were not independent agencies, nor was Stuckart independent. Whatever he did as a director of a central agency, he did upon the instructions and under the authority of the Minister. As a matter of fact, the central agencies were mere designations of certain tasks which were assigned to Department I, and Stuckart, in his capacity as Director of the Agencies, remained what he had been before—a department head, subordinate to State Secretary Pfundtner and to the Minister.

c. This is also true of another group of tasks assigned to Stuckart in connection with the so-called "GBV," Plenipotentiary General for Reich Administration. Frick, the Minister of the Interior, was the GBV and Himmler was his deputy. The GBV had no office of its own; he had his business matters handled by some officials of Stuckart's department. Stuckart was in charge of the technical procedure, and therefore had the title "Head of Staff of the GBV." In that capacity, too, he was just a department head and had no executive or decisive power. If, in exceptional cases, he cosigned a decree for the GBV, this was done upon a previous express decision by the GBV, Frick; that is, upon Frick's order and responsibility.

d. In every decisive respect, Dr. Stuckart's position is at the most equal, if not inferior, to that of a chief of staff at a higher military command, whose responsibility was rejected by the Military Tribunal in Case No. 7.*

e. Dr. Stuckart was appointed to the General Council of the Four Year Plan after the outbreak of the war only when the General Council had even fewer tasks than before the war. Now, as before, its functions were strictly advisory; Dr. Stuckart, moreover, never displayed any activity in the General Council.

f. Dr. Stuckart was not a member of the Reich Cabinet, the Ministerial Council for Defense of the Reich, the Reich Defense Council, or the Reich Defense Committee. This is clearly shown by the documents submitted by the prosecution. Stuckart, it is true, was to have been chairman of a commission, erroneously referred to by the prosecution as "Reich Defense Commission." This commission was supposed to, but actually never did, work out proposals for the simplification of the administration.

g. As from August 1943, four administrative departments of the eight ministerial departments of the Reich Ministry of the Interior were subordinated to Dr. Stuckart. But even then he had not the full position of a State Secretary. He was not—as Pfundtner had been—the Minister's general deputy. The Police, the Health Department, Veterinary Department, Sports Department, and Reich Labor Service were not subordinated to him in any way either then or before. Due to the autocratic ways of Himmler, Dr. Stuckart's position under Himmler was entirely dependent. Even within his narrow area of jurisdiction he had no independent authority of decision. In all more important matters he only acted upon instructions of the Minister.

3. In all his positions Dr. Stuckart was legally bound to obey his superiors who therefore had to bear the entire responsibility.

Article 7 of the German Civil Service Law provides, and I quote:

> "* * * He has to follow the official instructions of his superiors * * * he who has given the instructions has to bear the responsibility * * *."

This duty of obedience was combined with legal and factual sanctions, which in large measure give Dr. Stuckart the defense of necessity. This defense has been expressly recognized, in spite of the wording of Control Council Law No. 10, by Tribunal IV in the case of United States *vs.* Flick, et al., and by Tribunal VI in the case of United States *vs.* Krauch, et al.

* The defense is probably referring to the acquittal of defendants Kurt von Geitner and Hermann Foertsch. See United States *vs.* Wilhelm List, et al., "The Hostage Case", volume XI, this series, pages 1281–1288.

4. It will finally be shown that Dr. Stuckart, when he saw that the endeavors of the NSDAP in many respects were no longer compatible with his opinion, repeatedly tried to leave his position by volunteering for military duty. This was the only legal way to get free of his office, since there existed a decree and an express order by Hitler to the effect that civil servants, particularly those in leading positions, were not allowed to resign. Consequently, Stuckart was not released for military service either. Even if he had been free to decide whether or not he should remain in his office, and if he had decided to remain, he might refer to the English statesman Thomas More. When told he was preaching to deaf ears, More replied that this was no reason to give up and to desert the common weal; that one should not abandon the ship during a storm just because one could not rule the winds; that, if one could not change things for the better, one should try to keep them from turning to the worse.[1]

5. Dr. Stuckart was not a leading member of the Party. To exercise even the slightest influence on the Party's attitude and activities, he would have required the platform of an office in the political organization of the Party. In all the years, however, during which he belonged to the Ministry of the Interior, he held no such office.

In the SS, it is true, he had an honorary rank, but no authority whatsoever to exercise any influence—neither generally nor with respect to the activities of the SS.

It may be well in this connection to reflect in a general way as to how a man like Dr. Stuckart came to join the Party, what he expected from the Party, and what he meant to contribute himself to its efforts.

It is the Treaty of Versailles which paved the way for the National Socialist movement, and it is the total disorganization of all political and economic life in Germany, caused by the Versailles Treaty, which permitted the National Socialists to obtain absolute control over Germany. In support of this, let me just quote two men of undisputed common sense and justice, both from "the other side."

The Premier of the Union of South Africa, Field Marshal Smuts, wrote to President Wilson on 30 May 1919:

> "There will be a terrible disappointment when the countries learn that we are not going to conclude a Wilson's peace, that we will not keep our promises to the world, nor remain faithful to the public * * * and this peace may well mean a greater misfortune to the world than was the war."[2]

[1] R. W. Chambers, "Thomas More", 1946, page 194.

[2] Re-translation from Woodrow Wilson's *"Memorien und Dokumente,"* volume III, pages 402–403.

Lloyd George wrote in his book "Is It Peace?":

> "Nobody knows what will happen when a brave nation of 60 millions finds itself face to face to complete annihilation. Whether it will turn to left or to right will depend on questions of personal leadership, which cannot be decided as yet."*

It took about 10 years to complete the chaos which was foreseen by those two men and by many others too. They were the same years in which Dr. Stuckart worked his way through high school and university, experiencing at close quarters the misery of his country. Like millions of Germans he was lured by the promises of the National Socialists to establish a just social order within the country, to provide for work and food and happiness for all and to obtain equal rights for Germany within a peaceful family of nations. What President Wilson had promised in the world in 1918, what President Roosevelt laid down in the Atlantic Charter, and what the United Nations are working for now, is exactly what Stuckart expected from the Party, and what he was willing to support when he joined the Party, and in 1933, the civil service.

6. The prosecution bases its case against Dr. Stuckart on almost 400 documents. Some of these documents cannot be recognized as proper evidence for formal reasons. The defense will—in due course—mark those documents and explain in detail the nature of its objections in each case.

Moreover, it may be pointed out here that, generally ,the documents do not "speak for themselves." Frank and plain language, as is used in normal conditions, is to a large extent out of place in a dictatorship. There the author has to adapt his phraseology to the mind of the recipient and often use a language which—taken at its face value—would entirely misrepresent his true ideas and intentions. It will be necessary for the defense to scrutinize closely many documents with a view to finding out what they really mean.

7. In count one of the indictment the prosecution accuses Dr. Stuckart and other defendants of having participated in the planning, preparing, and waging of aggressive wars. They assert that those crimes were consistently and systematically committed in the following individual stages:

(1) Ensuring of the power of the NSDAP in the Reich.

(2) Preparation of the preparedness of the Reich for war.

(3) Annexation of foreign countries or parts of such in order to strengthen the strategic position of the Reich.

(4) Introduction of German law in the annexed territories.

* Re-translation from Lloyd George's *"Ist Wirklich Friede?"*

A plan for the preparing and waging of aggressive wars was discussed for the first time at the meeting of 5 November 1937, held by Hitler with a very close circle of confidants. This plan never came to Dr. Stuckart's knowledge. As to the legal aspect, the defense follows the opinion expressed by the American Professor of Political Science, F. B. Schick, in the American Journal of International Law, volume 1947, page 782:

> "* * * international law in existence at the time Nuernberg defendants committed the incriminated offenses knew of no obligation forbidding nationals of a sovereign state to plan or perform acts which, reviewed retrospectively by the victor, may be considered as having led to an illegal war. It is not difficult to show the highly problematical value of this innovation since, as a rule, it is impossible to know in advance whether the planning or preparation of certain acts is to promote an illegal war. Nor is it possible to ascertain whether services rendered in times of peace in order to augment the military and strengthen national as well as international security, will be construed at some later date as contributions to the planning, the preparation or the initiation of an aggressive war. Or would anyone doubt that the present search for, and the production of, new and more effective weapons, carried on so successfully by scientists, industry, and top-ranking officials of the victorious states under the leadership of the three most powerful of all 'peace-loving nations,' is being intensified for any but security reasons?"

History of nations furnishes an abundance of examples in support of this theory. May I be allowed to mention in this connection the motto of the State of Massachussetts:

> *"Ense petit placidam sub libertate quietam."* ["With the sword she seeks quiet peace under liberty."]

In order to do justice to Dr. Stuckart, it will be necessary therefore to understand his position at that time and to examine his knowledge and intentions of that period. It is from this standpoint that the defense will deal in detail with the charges raised by the prosecution.

a. With respect to the Civil Service Law, the execution of which the prosecution considers as a preparation for aggressive wars, the defense will show that political and administrative reasons justified this law, which had nothing to do with the idea of aggressive war. To remove political opponents from official positions is a customary practice of all states. In proof thereof, the Loyalty Bill recently issued by the United States and Law No. 8

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of the Military Government for Germany will be submitted. Moreover, after 1918 a considerable number of persons had been appointed civil servants for political reasons; they had no adequate training and were not able to do the work assigned to them. To get rid of such civil servants was the main object of the Civil Service Law.

b. The prosecution furthermore asserts that the program for the domination of the world, which allegedly was the aim of the Nazis, had been carefully planned in advance by administrative preparation, and that Dr. Stuckart had been in charge of the administrative mobilization of Germany. Such an administrative mobilization with the aim of waging aggressive wars has actually never taken place. All measures referred to by the prosecution have a defensive character and are in accordance with the practice of all nations. From this viewpoint the defense will deal particularly with the Laws of 1935 and 1938, the Defense Council, the General Council for the Four Year Plan, and with the Mobilization Book. Witnesses and contemporaneous publications will unequivocally prove the truly defensive character of the administrative work within the area of jurisdiction of the Reich Ministry of the Interior up to the outbreak of the war, and will show that Dr. Stuckart did not perform this work "as part of the Nazi plan to wage aggressive wars." On the contrary, Dr. Stuckart was aware of the fact that in 1939 Germany was not prepared for war, neither from a military nor from an economic or administrative viewpoint.

c. Dr. Stuckart is furthermore said to have cooperated in the annexation of foreign countries and parts of such, which allegedly represents a step towards further aggressive actions. Dr. Stuckart did not know of Hitler's aggressive plans. To him, the annexations were therefore not links of a chain, but individual actions. All these territories had been seized and annexed before Dr. Stuckart began to participate in the legislative and administrative measures called forth by the annexations. Quite apart from the fact that it was not Dr. Stuckart's duty to judge the international aspects of the annexations, he could not, from his knowledge at that time, have had any misgivings from a viewpoint of international law. The Anschluss of Austria came to Dr. Stuckart quite as a surprise, as from the middle of February 1938 he had been on leave at Bad Oberdorf in the Allgaeu. He was recalled from this leave by Frick and was sent to Linz. There he reported to Hitler on 13 March 1938—i.e., after the occupation of Austria—and was ordered to cooperate as a legal adviser in the drafting of the law on the reunion, which was to be submitted to a plebiscite by the Austrian population not later

than in the middle of April. He had no knowledge of any other intentions or measures. Under these circumstances, Dr. Stuckart could not have any idea of acting contrary to international law. Prior to 1866 Austria had been part of the German Reich or Federation. On 12 November 1918, by the Austrian National Assembly, she had declared herself a part of the German Republic. Plebiscites in the Salzburg and Tirol provinces, in 1919 to 1922, had shown a majority of 90 and more percent in favor of the Anschluss with the Reich. On the part of Germany, the Weimar Constitution, in Article 61, provided for the Anschluss of Austria. During 1930 and 1931 this idea of an Anschluss expressed itself in the plan of a customs union. The days of the march into Austria were accompanied by unimaginable cheers of the Austrians. Official agencies, even the Church, welcomed the Anschluss. Dr. Stuckart therefore started in good faith believing that the Anschluss was in accordance with the wish of the people of Austria. Besides it was to be and in fact was, sanctioned by a plebiscite on 10 April 1938. The great world powers, by changing their legations into consulates, recognized the Anschluss *de jure,* as stated by Professor Kaufmann as a witness. No strategic intention, such as now has become known by the Hossbach memorandum, ever entered Dr. Stuckart's mind.

The annexation of the Sudeten territory, too, must have appeared to Dr. Stuckart—just as to anybody else who was not aware of Hitler's aims and plans—as a lawful and internationally approved action. The Prague Government accepted the Munich Agreement on 30 September 1938 upon the recommendation of the great powers. The idea that the annexation of the Sudeten territory should be a strategic preparation for further steps against Czechoslovakia was entirely remote from Dr. Stuckart. With respect to the reunion of the Memel territory with the Reich, it will be shown that Dr. Stuckart had nothing to do with the conclusion of the German-Lithuanian agreement of 22 March 1939.

Dr. Stuckart cannot be held guilty, either, with respect to the establishment of the Protectorate of Bohemia and Moravia. Dr. Stuckart cooperated in the decree concerning the protectorate only after Prague had been occupied by German troops. He had no part in the events which had led to the occupation of Czechoslovakia by German troops. He had no knowledge of them and it was only on the way to Prague that he learned of an agreement between Hacha and Hitler. Necessarily he regarded the creation of the Protectorate as the lawful result of the said agreement. The idea never entered his mind that this step, too, should be a preparation for an aggressive war. Besides the Protectorate was

recognized by foreign countries, when Great Britain—as well as other states—closed their legations in Prague and applied for exequaturs for consuls in Bohemia and Slovakia.

Concerning the effects of a *de facto* recognition, Lauterpacht says in "Recognition in International Law" (Cambridge 1947), page 400:

> "The legal effects of such recognitions, though considerable, were of limited scope and confined largely to a recognition of the *internal validity* of the measures of the authority actually in power." [Emphasis supplied.]

In the history of the United States the taking possession of foreign countries as protectorates is also known. I beg to mention Cuba, Santo Domingo, and Haiti, which against the wish of their inhabitants and by military pressure were practically transformed into Protectorates. In his annual address of 1904 President Roosevelt said in respect to Santo Domingo:

> "Chronic wrongdoing, or an importance which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation * * *."

The annexations of *Danzig, West Prussia, Poznan, Eupen-Malmedy, and Moresnet* were only decided by Hitler during the war. In this respect, the general rules of warfare are to be applied:

> "There is no reciprocal connection between the manner of the military occupation of territory and the rights and duties of the occupant and population to each other after the relationship has in fact been established. Whether the invasion was lawful or criminal is not an important factor in the consideration of this subject." (Military Tribunal V, Case No. 7, page 1247, Vol. XI, this series.)

Accordingly, international law appears to sustain the annexation of these territories. We refer to Oppenheim's "International Law," edited by H. Lauterpacht (1944, par. 264), where it is said that an annexation is admissible if the entire territory has been conquered and the military enemy forces are annihilated. At the time of those annexations, conquest and annihilation of the enemy forces had been effected. The annexations in the East were even recognized by the neighboring states. Wartime annexations were at all times customary and admissible from the viewpoint of international law. The international practice of nations up to the present time offers numerous examples. We would mention the annexation by England of the Boer States

during the Boer War, and of the island of Cyprus during World War I; the annexation by Albania of the Yugoslavian territories Kosovo, Dibrano, and Seruvo; the annexation of Macedonia by Bulgaria, and the annexation of the Eastern Polish territories by Soviet Russia. Besides, in our case, we are concerned with ancient German territories which only by the Versailles Treaty had been wrongly allotted to alien states—that was, at any rate, the opinion prevailing in Germany which Dr. Stuckart shared.

d. Finally, the introduction of German law in the annexed territories did not serve either the preparation or the waging of aggressive wars, but it aimed at the restoration of public safety and order. Even though one should consider this to be in support of warfare, it does not amount to "waging an aggressive war," within the meaning of the law. This was expressly established by the IMT in the judgment of Speer.* There can be no doubt that a country may introduce its law in annexed territories, even if the annexation is recognized *de facto* only. Mr. Justice Bennet stated in the case of Haile Selassie *vs.* Cable and Wireless Company, Ltd. (No. 2):

> "I think that the only point established by the decision in that case is that, when the Government of this country has recognized that some foreign government is *de facto* governing some foreign territory, the Law of England will regard the acts of the *de facto* government in the territory as valid, and treat them with all the respect due to the acts of a duly recognized sovereign State. It is clear, I think, that the acts so treated are acts in relation to persons or property in the territory which the authority is recognized as governing in part."

No crime against peace can be found in the introduction of German Law in the annexed territories, unless the introduction was accomplished with full knowledge of Hitler's aggressive plans.

e. With respect to the annexations and to the introductions of German Law in the annexed territories, the defense will submit the following legal argument: Domestic penal law protects private rights. Where there is an error as to the private rights violated, there is no criminal intent. This is universally acknowledged. Control Council Law No. 10 protects international rights. Consequently, where there is an error as to the international rights violated, there is no criminal intent either. Military Tribunal III, in its judgment in Case 3 (The Justice Case, vol. III, this series) expressly requires:

> "* * * that the accused knew or should have known that in matters of international concern he was guilty * * * and that

* Trial of Major War Criminals, op. cit., volume I, pages 330–333.

he knew or should have known that he would be subject to punishment if caught."

It will be shown that Stuckart—provided his acts violated international rights—did not know, and could not be expected to know, that he did violate any rights.

f. This brief survey shows that Dr. Stuckart never participated in the military, diplomatic, political, or even administrative preparation of an aggressive war. It is significant that, with respect to the Polish campaign, the prosecution was not able to produce proof of any activity by Dr. Stuckart *prior* to 16 September 1939, and that this activity concerned an opinion on the transfer of civil servants to the military administration of the occupied territories. Dr. Stuckart's activity in this respect did not serve any aggressive actions but the restoration of public safety and order, a task which, according to the Hague Rules of Land Warfare, is not only a right but even a duty of the occupying power. Thus, wherever Dr. Stuckart appears, we shall see him as the exponent of order and the defender of a safe and just administration.

g. Beyond these facts, however, Dr. Stuckart, as already stated at the beginning, did not belong at all to the circle of persons whose position and influence made them responsible for the aggressive wars. In its judgment against Krauch, et al. (vols. VII and VIII, this series) Military Tribunal VI drew the line between the guilty and the innocent of crimes against peace *below* the circle of the spiritual authors and leaders sentenced by the IMT and *above* the "group of these men whose participation was less significant, and whose activity consisted neither in drafting plans nor in leading the Reich in her ambitious intentions of aggression."

8. In count two of the indictment, Dr. Stuckart, together with other defendants, is accused of having participated in the formulation and execution of a common plan and conspiracy to commit crimes against peace. In its judgment, the IMT stated that the Nazi plan of aggression had been established at four meetings held by Hitler and his confidants on 5 November 1937, on 23 May, 22 August, and 23 November 1939. Only the participants in these meetings were found guilty by the IMT of a conspiracy to wage aggressive wars. Not even the prosecution asserted that Dr. Stuckart participated in any one of these meetings or learned of the plans discussed at them. Moreover, the defense will prove that Dr. Stuckart never learned of any plan to wage aggressive wars, and that he never participated in such a plan. In its judgment against Krauch, et al., Military Tribunal VI stated that the

plans for aggressive wars were drafted by a very narrow circle and remained within this circle: "Its meetings were secret, the discussion was confidential." It is beyond any doubt that Dr. Stuckart never belonged to this circle.

9. In count five of the indictment, the prosecution charges Dr. Stuckart with actions under two main viewpoints—

a. Persecution of Jews

b. Germanization

The measures taken by the Nazi regime against the Jews consist of two categories which are to be clearly distinguished.

The *first category* comprises the legislative measures, by which the *legal status* of the Jews in the public life of Germany was regulated. Dr. Stuckart participated in a part of these measures inasmuch as they came within the competence of his department in the field of constitutional law.

It has already been stated that Dr. Stuckart's collaboration in legislative work cannot possibly establish a criminal responsibility, since his position gave him no possibility of any decisive collaboration. A significant example for the kind of Dr. Stuckart's collaboration in the legislation is offered by the affidavit of Dr. Loesener (*NG–1944 A, Pros. Ex. 2500*). In this affidavit Dr. Loesner describes in detail how the Nuernberg Laws were set up. He testifies that—

The order for the drafting of the Nuernberg Laws was given by Hitler on Friday, 13 September 1935, that is two days before their enactment; numerous drafts were formulated by Stuckart and some other officials; none of the officials who formulated the drafts came into contact with Hitler; Frick repeatedly transmitted new directives by Hitler which upset the entire previous work of the officials; at midnight from 14 to 15 September, Frick ordered his officials to prepare four different wordings of the drafts for the Reichstag meeting of the following day; at the same time, that is, also at midnight from 14 to 15 September 1935, Frick transmitted a further order by Hitler to draft a Reich Citizenship Law; only at the Reichstag meeting Stuckart and his collaborators learned that Hitler had selected one of the four drafts, and that he had stricken from the draft a rather important provision, namely the provision that the law was to apply to full Jews only.

It would be difficult to demonstrate more clearly how utterly lacking in influence Stuckart was in connection with legislation. Apparently, it did not matter at all what he and his collaborators really thought about the problems to be settled. He was not expected, nor was he in a position, to express his opinion towards Hitler. What he and his collaborators were expected to do, and

what they did, was to find the adequate legal phraseology for ideas and intentions which emanated from Hitler and his circle. And even when they had finished their work they had not the faintest idea which one of the four different drafts Hitler would choose. In fact, he didn't accept any one unchanged. And all this happened in 1935, that is at a time when everybody still had a vivid recollection of the traditions of former times, and when Hitler's autocratic methods were not by far as outspoken as in later years. We can easily imagine what Stuckart's part in the legislation may have been in later years, considering what it had been as early as in 1935—strictly technical. How could he be held to have participated in the commission of crimes in the case of legislation, in which he had such an unauthoritative part!

The evidence will show that at no time Stuckart had any material influence on the policy concerning the Jews, and that the legislative measures against the Jews emanated from and were dictated by the Party and the Reich Security Main Office, while Stuckart and his men fought a tenacious fight against the ever growing radicalism. Finally in 1943, as a result of their attitude, Department I and Stuckart were completely eliminated from dealing with race questions, and the remainder of their competencies in this field were transferred to the Reich Security Main Office.

The *second category* comprises the measures pertaining to the *practical* solution of the Jewish problem, from enforced emigration to mass evacuation, and finally to the systematic extermination of the Jews.

The prosecution have submitted one single document only in order to connect Dr. Stuckart with these measures, namely, the so-called Wannsee record on the conference of 20 January 1942. The defense will show that the Wannsee Conference was not a "policy-making session" as alleged in the indictment, since the "policy-making" had been done by Hitler about 6 months before the conference, and that the realization of such policy had been under way for 3 months before the conference. The defense will also prove that neither before the conference, nor after, had Dr. Stuckart anything to do with the evacuation of the Jews, but that, on account of the statements made by Heydrich at that meeting regarding the current evacuation of Jews, he tried everything in his power to thwart Heydrich's plans. It will be found that it was mainly due to Dr. Stuckart's endeavors that many thousands of Jews, and all persons of mixed blood, were spared the fate designed by Hitler for the Jews and prepared for them by Himmler and Heydrich.

In this connection Dr. Stuckart could not frankly express the

ideas of humanity which inspired him. He had to camouflage his ideas by proposals, which, while they seemed to meet the brutal demands of the persecutors of the Jews, actually sabotaged their intentions. Thus the proposal made by Dr. Stuckart at the Wannsee meeting to sterilize the half-Jews proves to be a tactical maneuver in their favor. For Dr. Stuckart had previously assured himself that such a mass sterilization could not be carried out during the war, and that this proposal therefore could do no harm, but would gain time. He actually attained his aim by this proposal. The full-Jews living in mixed marriage and the half-Jews were not evacuated; they were not sterilized either. It is not by the words he used but by the fruits of his deeds that Dr. Stuckart must be judged by this Honorable Tribunal.

Dr. Stuckart's real attitude concerning the Jewish problem is clearly enlightened by the scene described by Dr. Loesener in cross-examination, when after an excited dispute with Party delegates, Dr. Stuckart struck his fist on the table and exclaimed: "Don't these people know that there still exists a God!"

The prosecution furthermore accuses Dr. Stuckart of having participated in the murderous extermination, elimination and suppression of Jews and minorities, as well as in the so-called Germanization of alien elements. The documents submitted by the prosecution unequivocally disprove this charge. Dr. Stuckart had nothing to do with the resettling of Germans, the evacuation of aliens, and the re-Germanization of such persons. Dr. Stuckart did not collaborate closely in this field with the Reich Commissioner for the Strengthening of Germanism, nor was he connected with the Race and Settlement Main Office, as erroneously stated by the prosecution.

The Reich Ministry of the Interior and, in particular, Department I, directed by Dr. Stuckart, were exclusively concerned with questions of citizenship; with regard to the newly annexed territories, questions of citizenship were not decided by Dr. Stuckart or the Reich Minister of the Interior but by the Reich Commissioner for the Strengthening of Germanism, and at the highest level, by Hitler himself. Thus the Reich Ministry of the Interior was restricted with regard to citizenship matters to the formal legislative cooperation, after their admissibility under international law [voelkerrechtliche Zulaessigkeit] had been expressly confirmed by the Foreign Office in every single case.

Apart from this it will be demonstrated that the annexed Eastern territories as frontier territories had a constantly changing fate, dependent on the sovereignty they were subjected to. After the Versailles Treaty these territories were Polonized, regardless of the right of self-determination and minority rights. Con-

sequently, the German Peoples' List was to a large extent nothing but an instrument for the reparation of a wrong inflicted on these German people by the Poles.

It may be pointed out here that some of the measures which the prosecution refers to in this connection concerned the return and care of refugees, who were neither to be Germanized nor evacuated, but who were fleeing from the approaching Russian armies. These measures had nothing to do with the so-called Germanization. They were measures for the refugees who were pouring into the Reich without support or order. It can only be a regrettable oversight by the prosecution that they should try to turn these measures of aid into criminal actions.

10. In count six of the indictment, the prosecution charges Dr. Stuckart with participation in the spoliation of occupied territories. They submitted 22 documents which are alleged to corroborate Dr. Stuckart's guilt. Partly, these documents refer to plans which were never realized, partly to purely formal adjustments of competency, and partly even to the release of property of Polish communities and to the registration of property which had been confiscated by agencies without proper jurisdiction. Dr. Stuckart had no part in criminal actions. The defense will refute the extremely weak *prima facie* evidence of the prosecution by detailed consideration of the submitted documents.

As a legal argument it may be pointed out that a crime against humanity cannot be realized by an alleged violation of property rights. This was expressly stated by Tribunal IV in the judgment against Flick, et al., with reference to the Eighth Conference for the Simplification of Criminal Law in Brussels, on 10 and 11 July 1947. Tribunal VI agreed with this opinion in the judgment against Krauch, et al. War crimes, however, can be assumed only if members of occupied territories were deprived of property against their will.

Even the prosecution did not assert that such an act was committed by Dr. Stuckart. Moreover it appears doubtful whether a war crime can be committed at all by a civilian. Plunder as a war crime is the "unauthorized and illicit appropriation of private property by *officers, soldiers or camp followers.*"

11. In count seven of the indictment the prosecution furthermore asserts that Dr. Stuckart participated in the enslavement and deportation to forced labor of members of the civilian population in countries and territories under belligerent occupation or other control by the Third Reich. He is also accused of having participated in the enslavement of concentration camp inmates, employment of prisoners of war in actions of warfare, and the ill-treatment, terrorization, torturing, and killing of enslaved

persons. Dr. Stuckart is said to have committed these actions by participating in the drafting and formulating of laws and decrees regulating the wages and labor conditions of the slave workers. He is also said to have determined, together with Lammers, the respective priorities of labor recruitment drives. With regard to this last assertion, the prosecution offered no proof at all. As to the other assertions, they referred to some documents, concerning a regulation of wages for Poles and a new regulation of employment conditions for Eastern workers. The defense will show that Dr. Stuckart had no jurisdiction with respect to wages and labor conditions, that such jurisdiction rather rested with the Plenipotentiary General for Labor Allocation (GBA), and formerly with the Reich Labor Minister. Dr. Stuckart participated in one single case only by cosigning a decree, and he did so upon the instructions of his superiors. Moreover, the decree on the employment conditions of Eastern workers, which, for reasons of formality he cosigned, essentially improved the situation of Eastern workers. By merely giving an opinion on wage schedules for Poles he did not participate in the slave labor program. These facts cannot lead under any circumstances to his conviction.

Besides, Dr. Stuckart has nothing to do with a large number of documents submitted against him in particular with the so-called "Heuaktion" (Hay action), and with the employment of air force and SS helpers. This had already been confirmed by the codefendant Berger testifying on his own behalf.

12. Finally Dr. Stuckart is charged in count eight of the indictment with membership in the SS as a criminal organization. In its judgment the IMT declared to be criminal those persons who, after 1 September 1939, voluntarily became or remained members of the SS, and either had knowledge of or were involved in criminal acts of the SS.

It is true, Dr. Stuckart had the rank of a lieutenant general in the SS. This rank, however, was a so-called honorary rank, bestowed on him in accordance with his position as civil servant. Dr. Stuckart did not hold an office, nor had he any function or authority in the SS; he only had the right to wear the uniform of his honorary rank of lieutenant general.

The defense, moreover, is of the opinion that only those persons belong to the group declared to be criminal, who consented to the crimes committed by the SS. This, however, does not apply to Dr. Stuckart. On the contrary, he was a defender of order and justice, opposed to all radical measures and to all methods of terror as applied by the NSDAP and its organizations. He gave protection and assistance to persecuted persons to the extent of endangering his own person and his family. It would be

incomprehensible if Dr. Stuckart were to be found guilty on account of his membership in the SS, which was a purely nominal one.

To sum up—the defense will show that Dr. Stuckart does not deserve punishment but recognition for his general attitude as well as for his activity, both of which were decent even under the most difficult circumstances.

M. Opening Statement for Defendant Richard Walther Darre*

DR. MERKEL (counsel for defendant Darré): Your Honors, one of the greatest catastrophes of world history has swept over Germany and it is not by any means certain yet whether it was the last catastrophe of this century. World history has been written by an iron hand. Even a Tacitus could hardly succeed in portraying this drama correctly.

How much more difficult is this task for an attorney at law. He is not supposed to be a historian; but he is supposed to present the facts in such a way that a just verdict can be passed. The attorneys of the prosecution had the advantage of selecting and presenting voluminous documentary material to support their points of view. I am afraid though that the picture thus created is not always in keeping with the facts. In my argumentation I shall therefore be forced to make certain corrections and supplementations.

As counsel for the defense I know the German fate from the inside. From the viewpoint of conducting the trial this is an advantage, since I hope to be able to present the facts as they really developed. In this way alone will a picture be created which will stand firm before the judgment of history. I would not dare to decide whether this picture agrees in all points with public opinion within and outside Germany. But I will abide by Emerson's saying expressed in his essay, "Character": "Justice must yet be victorious, and it is the prerogative of the truth to make itself plausible."

The Third Reich was a drama which passed over the stage in a series of acts. With unheard-of frequency were the scenes shifted and the characters changed. Men who had been behind the scenes moved gradually into the foreground. Others who in the beginning dominated the stage were relegated to the background or they retired. Finally there were but a few actors left, and an enormous array of corpses.

* Transcript pages 18541–18548, 27 Aug. 1948. The final statement of defendant Darré appears in section XIV, volume XIV, this series.

The Third Reich might be lived through as if it were a Shakespearean drama. The fate of the individual personalities took shape just as in a drama. Some rushed blindly towards their fate. Others heaped guilt upon themselves. Others again rebelled against the course which things took, and yet others obeyed the voice of duty and conscience. A great poet can fittingly present the greatest variety of characters to the observer, and from their interplay develop the greatest variety of conflicts. How much greater is the drama which lies behind us.

Even in a drama it is not possible to reduce the wealth and diversity of characters to a formula. Much less is this possible in real life. There existed no uniform type of "grey eminences" such as the prosecution assumes and if there really were some such "grey eminences," they are probably not to be found in the defendants' dock here. The wealth of life shatters every formula. Of the men who are sitting here, each one has his individual character, and thus it is incumbent upon me to describe to you the character of my client. Then the Court and history may decide whether we are dealing here with guilt or with destiny, with good will or bad will, with conscience or with lack of conscience, with duty or with arbitrariness, with genuine striving or with force, with humanitarianism or with satanism. For only he who knows the man can know his works.

He who really knew Berlin, looks upon the Wilhelmstrasse in a different light from the prosecution. Here there were men who, with bleeding hearts, experienced the shattering of their ideals. They pursued the path prescribed by duty and conscience. This path led some to secret resistance, others to open struggle. Some, as loyal Christians, blamelessly pursued the path of order until catastrophe came. Others were sincerely convinced that a new social order was dawning which they wanted to serve. When this hope faded away, however, and when they pursued their path alone, they were turned out, deprived of power, and sent into exile. My client is one of these.

Darré did not spring from obscurity as did those brutes Koch, Ley or Streicher. He did not belong to the men of 9 November 1923, [Beer Hall Putsch, Munich] such as Goering, Frick, or Hess. He was not one of the upstart Party functionaries such as Bormann, and he was not a man of mass meetings, such as Goebbels who at one time conquered "red" Berlin.

I shall show how some basic principles determined his entire way of thinking and of acting. He wanted to strengthen and advance the German peasantry in a world which looked upon this peasantry with hostility or without understanding. He wanted to develop self-administration for that calling in opposition to the

Party dictatorship. In a world filled with capitalist and collectivist tendencies he wanted to establish a socialist economic order. He was filled with reverence for the past, and in a world which had surrendered to practical materialism, he felt under an obligation towards the future. He was an individualist, and he continued to be so. I shall show how his ideas were understood by the simple peasant and by leading personalities of agriculture in foreign lands. But the leading personalities in his own country, the leaders of the State, the Party, and economy, fought him, derided him, or, at best, tolerated him. In the end, his downfall came about through his own State Secretary Backe, through Bormann, and Himmler.

The IMT judgment, precisely with regard to Darré, did not recognize the Reich Cabinet as a "criminal organization." The opinion of that judgment was correct. Darré has nevertheless been charged with preparation for aggressive war. In refutation of this, I shall prove that the Marketing Order was not a measure in preparation for a war. Such measures have been taken the world over, and all were at a later date adapted to war conditions. All states had their state defense councils. I shall prove this for the period from 1904 to 1948. Finally, I shall prove that the stockpiling of grain was due to the record crop of 1938, to imports which had been ordered earlier, and to further imports which had been made upon the request of overseas exporting countries which were swamped by their record crops.

On the other hand, I shall also show how, through his close collaboration with agricultural circles in other countries, Darré tried to free the international atmosphere of poison in order to create a "Green International Organization of Peasantry." By numerous statements which Darré made I shall prove how sharply he rejected war, and how clearly he summed up from the very beginning the results of this war. He reminds one of Seneca, and not of Nero. That is the very reason why Hitler dropped him as a defeatist.

The prosecution made it a special point to depict Darré as the advocate of the Nazi racial ideology. I shall first show how Darré's principal works provide no basis whatsoever for this assumption. It cannot be denied that modern natural science has acquired definite ideas in the field of racial hygiene. These were in harmony with Darré's views. I shall prove that his few anti-Semitic utterances had nothing to do with the extermination of Jews which started only 5 years later. When those began Darré was, politically speaking, a dead man. Already in February 1938 he separated from Himmler, and when the war began he broke

with him altogether. There were but few people at that time in Germany who judged Himmler as clearly as Darré.

Finally, I shall prove that Darré did not participate in the war crimes. The prosecution wants to see in him a principal advocate for the so-called "expansion towards the East." Why then was it that Darré was pushed aside at the very moment when Hitler embarked upon this path? Why then, of all things, did Hitler make a point of having the preparatory measures for the Russian campaign kept secret from Darré? Darré had nothing to do with the Germanizing of the Eastern territories. In this respect, too, he pursued peaceful methods and not those of violence. The prosecution's assertion that in agricultural respects Europe was stripped, cannot be upheld. I shall establish proof for this on the strength of wartime food balance sheets. Still less is it true that the German population lived on the products of the occupied territories.

Darré had nothing to do with the recruiting of foreign labor. On German farms they had good treatment. I shall prove this through leading personalities in present day agriculture, including the three Ministers of Agriculture in the American Zone.

As regards spoliation and the question of foreign workers, I shall in particular support my statements by pertinent passages from a report of 1944 by the British Ministry of Economic Warfare. There it is stated clearly that until the end of 1941, in other words the period when my client was in office, Europe's agriculture was not destroyed by plunder, but rather was brought to the highest level of efficiency. It is also stressed that in the year 1940 civilian foreign workers came to Germany only in very insignificant numbers.

I believe that in the face of the evidence of my case-in-chief, the assertions of the prosecution cannot be upheld.

May it please the Tribunal, first of all, I would like to explain quite briefly some technical matters.

The defense documents were submitted at the commission hearing of 12 August 1948, and they were given current exhibit numbers. I have submitted four document books and two supplementary books. The document books of the defense correspond to the document books of the prosecution. Document book 101 of the prosecution attempts to describe the background of Darré's personality. Document book 1 of the defense shows the personality of Darré as it actually was.

Document book 102 of the prosecution, in connection with Document book 107 of the prosecution, tries to show Darré as a participant in a war of aggression. Document book 2 of the

defense shows the actual conditions in the sphere of the market order and grain storage.

Document book 103 of the prosecution attempts to show Darré as a representative of radical anti-Semitism. Document book 3 of the defense shows the actual state of affairs in this respect.

Document books 104 to 107 of the prosecution attempt to prove that Darré committed war crimes or participated in such. He was supposed to be connected with the work of the Reich Commissioner for the Strengthening of the Germanism, the so-called spoliation of occupied territories, and the so-called slave labor. Document book 4 of the defense shows the actual state of affairs in these three respects.

Document books 5 and 6 of the defense contain supplementary documents.

All the books have already been translated. Document books 1 to 4 have been mimeographed. The Defense Center has stated that the remaining two document books will be finished shortly. Exhibit numbers show the sequence in which the documents should be read, because in this sequence they present the best over-all picture.

I am submitting an index of the exhibit numbers and where they are to be found.

I have arranged the examination of the defendant in accordance with the points of the indictment, so a series of main questions will be discussed.

In order to facilitate the work of the Tribunal, I have made a list of all the documents which I intend to discuss, in the sequence in which I shall come to them. I shall submit this list in the course of my case, and I ask that it be used at the discretion of the Tribunal.

I would now like to call the former Reich Minister of Food, Walther Darré, to the witness stand as a witness in his own case.

N. Opening Statement for Defendant Meissner

STATEMENT FILED BY DR. SAUTER (counsel for defendant Meissner)*

I. General statements

In dealing with the case of Dr. Otto Meissner, it is not my intention to make any *general* statements with regard to facts, legal principles, or political matters.

* Pursuant to an arrangement between Dr. Sauter and the Tribunal, this statement was not read in open court but rather filed with the Secretary General of the Tribunals and thus made a part of the official record in the trial.

The final statement of the defendant Meissner to the Tribunal appears in section XIV, volume XIV, this series.

General statements of this kind have been submitted extensively by the defense during the other Nuernberg trials and have been dealt with by the various American tribunals. Besides, such general statements will also in this trial be submitted to the Court by the other defendants and their counsel. Finally, the case of Dr. Meissner offers no special opportunity for any such general and basic deliberations.

The defense of Dr. Meissner will, therefore, not deal at all with problems like the retroactive effect of penal laws, or the problem of acting pursuant to superior orders, especially in a dictatorship, or with the problem of the lawfulness and political expediency of trials of this kind against nationals of the defeated enemy country; it will be limited to those concrete facts with which the prosecution charges especially Dr. Meissner, and to the refutation of the evidence submitted against him.

II. The Individual Counts of the Indictment

The indictment charges Dr. Otto Meissner under the following counts:

Count one—Planning, preparation, initiation and waging of wars of aggression

Count two—Common plan or conspiracy

Count four—Crimes against humanity committed against German nationals from 1933 to 1939

Count five—War crimes and crimes against humanity committed against German nationals and nationals of occupied countries between 1938 and 1945

Count six—War crimes and crimes against humanity: plunder and spoliation

Dr. Meissner has not been charged under the other counts of the indictment.

With regard to the individual counts of the indictment Dr. Meissner intends to take his stand in the following way:

Count one—Planning, Preparation, and Waging of Wars of Aggression*

To paragraph 1 of the indictment

Dr. Meissner denies emphatically that he committed any "crimes against peace" as defined in Article II of Control Council Law No. 10; he never took any part in the "initiation of invasions of other countries and wars of aggression in violation

* During its closing statement, the prosecution withdrew the charges of counts one and two against the defendant Meissner, stating, among other things, that "Therefore, upon reconsideration of all the evidence in the case, the prosecution feels that it has not established its burden of proof as against the defendant with respect to crimes against peace. The prosecution hereby formally withdraws its charges against the defendant Otto Meissner under counts one and two of the indictment." (See sec. XIII, vol. XIV, this series).

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of international laws and treaties"; he had no part whatsoever in the "planning, preparation, initiation and waging of wars of aggression"; he was neither a "principal in" nor an "accessory to" the commission of "war crimes and crimes against peace"; he did not "order" them, nor did he "abet" them, nor did he ever "take a consenting part in them"; he was not "connected with plans and enterprises" involving them, nor did he ever belong to any "criminal organization". Already at this point he wants to emphasize that in particular he never took part in any military discussions which preceded the various wars waged by Hitler, or took place during those wars. Neither was he informed about the matters discussed at those military conferences; this can be easily explained through Hitler's draconic orders with regard to the secret character of those conferences.

Thus none of the general charges concerning the preparation and waging of wars of aggression concern Dr. Meissner, as listed summarily in paragraph 1 of the indictment, without details referring to Dr. Otto Meissner being stated by the prosecution.

With regard to this point the prosecution submitted only six documents referring to the creation and award of various decorations and memorial coins (*cf. Docs. NG–2412, NG–3690, NG–4626 to 4629, all in Ex. 807, contained in Doc. Book 28*). It is Dr. Meissner's opinion that these ridiculous documents cannot prove anything at all with regard to the question whether he had knowledge of a plan for the waging of wars of aggression in violation of international treaties; whether he approved of such a plan or took part in it. Dr. Meissner cosigned the documents presented only in his capacity as Chief of the Awards and Decorations Office, which means that he acted within the scope of his official competencies; matters concerning decorations belonged to the sphere of his duties. The decision about matters concerning decorations, that is, the creation or the award of a decoration, rested with Hitler, not with Dr. Meissner. He still cannot understand how his actions, carried out in pursuit of his duties, namely, the handling of matters connected with decorations, can be interpreted as participation in a conspiracy for the waging of wars of aggression!

To paragraph 5 of the indictment

Dr. Meissner rejects the charge that he was an "active participant" in Hitler's "seizure of power" on 30 January 1933 in that "he marshalled the financial, political, psychological, and propaganda support necessary for its success."

He will, on the contrary, prove that during the entire period of negotiations preceding Hitler's "seizure of power" he used his

influence to prevent Hitler's appointment as Reich Chancellor. He was purposely left out of the decisive negotiations which nevertheless finally led to Hitler's "seizure of power" in January 1933. It was only after long negotiations and with a heavy heart that Reich President von Hindenburg decided to appoint Hitler, because he saw no other way out if he wanted to avoid a violation of the constitution, to which he was bound by oath, and the outbreak of a civil war. Dr. Meissner will also prove that the claim made in Document NG–169, Exhibit 802 is nothing but base slander, namely that he was threatened with a "financial scandal, with regard to Schenker & Co.," and that this fact influenced his attitude concerning the appointment of Hitler as Reich Chancellor.

To paragraph 6 of the indictment

The prosecution charges in this paragraph that Dr. Meissner together with others supported the tyranny of the Hitler government after it had seized power. This is entirely wrong. He never gave his consent to the suppression of all other parties and to their final dissolution through the Reich Law of 14 July 1933, just as he never was a member of the Reichstag; on the contrary, he disapproved of the suppression of the opposition parties as well as of the suppression of the trade unions; he expressed this opinion also through the fact that in spite of repeated invitations he personally never joined the National Socialist Party, neither in 1933 nor later, and that he also refused to take over any honorary leadership in any of its affiliated formations. He had no part, either officially or personally, in any of the measures taken for the purpose of suppressing the opposition parties of the churches, the Freemasons, etc. The charge, which was not substantiated in detail, that he, too, "cloaked these activities with a semblance of legality by spurious procedural techniques," has no foundation whatsoever with regard to Dr. Otto Meissner.

The same goes for the other charge that Dr. Meissner supported Hitler's government of violence indirectly through his participation in the "granting of pardons to criminal members of the Party who had been sentenced by judges for proved offenses." The opposite is correct. Dr. Meissner will prove that whenever he had to state his opinion with regard to such clemency pleas of convicted Party members, and when the clemency pleas were submitted to Hitler, he, together with the then Reich Minister of Justice, Dr. Guertner, usually spoke against pardoning such criminal elements. It is not Dr. Meissner's fault if in many cases Hitler rejected Meissner's point of view, and, since

he had the power to grant pardon, decided differently, that is, in favor of the Party members. Meissner's usually negative attitude towards such clemency pleas for Party members must be considered in the proper light, and must be compared with the lenient treatment which Dr. Meissner adopted in principle if clemency pleas for politically or racially persecuted persons, or for Alsatians and foreigners, were concerned. This will be discussed later on, when we come to paragraph 41. The prosecution has also attempted to charge the defendant Dr. Meissner with having handed over condemned criminals to the Gestapo. Several documents in document book 74 have been submitted in evidence of this charge. Dr. Meissner will, however, prove the following: During the war it happened repeatedly that Hitler considered the penal sentences pronounced by the courts as too mild, and he personally ordered the SS to take the prisoners out of the prisons in order to put them into a concentration camp; as the "Supreme Judge" of the German Reich, Hitler reserved for himself the right to issue such orders. Dr. Meissner had no part in giving such orders to the SS, neither did he suggest or advise them; nor did he pass on those orders to the executive authorities (Gestapo or SD). All he did was to inform the Reich Ministry of Justice that in certain individual cases Hitler had given those orders to the Gestapo. The Reich Ministry of Justice was informed at its own request. The only purpose of this information given to the Reich Ministry of Justice by Dr. Meissner or his office, was to enable the Reich Ministry of Justice to review through its own officials cases criticized by Hitler, to handle them through legal channels, and, if necessary, to suggest to Hitler that he should rescind his order, submitting to him reasons substantiating the other side of the case. Dr. Meissner's activities in such cases therefore did not constitute a support of this regime of tyranny and of arbitrary decisions; on the contrary, he even fought against it. Such "transfers," incidentally, took place only in serious criminal cases, and, besides, Dr. Meissner could not have prevented such "transfers" even if the Reich Ministry of Justice had not been informed. With regard to the case of Luftgas,* Dr. Meissner will prove that this case was not handled at all by either him or by his office.

* The Luftgas case was also an issue in the "Justice Case," United States *vs.* Josef Altstoetter, et al., volume III, this series. After Luftgas had been sentenced to two and one-half years, imprisonment, Hitler directed that Luftgas be sentenced to death. Under Secretary Schlegelberger, Acting Reich Minister of Justice and a defendant in the "Justice Case," thereupon turned Luftgas over to the Gestapo for execution. See Document NG–287, Prosecution Exhibit 88, in volume III, section V C 2 *a*, "The influence of Hitler and others upon the administration of justice." This document is not reproduced herein.

To paragraph 8 of the indictment

Dr. Meissner is furthermore charged with having "staged conferences and meetings at which the leaders of the countries to be victimized were threatened." Dr. Meissner will prove that this assertion, too, is entirely wrong. His "participation" in conferences and discussions always concerned only the formal technicalities and the representative side of such meetings; as a matter of fact, it was limited to those meetings, which took place in Berlin or at the guest house of the German Reich, Klessheim castle (between Salzburg and Reichenhall). He was at the "Berghof," Hitler's residence near Berchtesgaden, only a few times, but was never present at any political discussions, and was therefore not informed about their subject matter.

In all these cases Dr. Meissner's activities consisted only in taking care of the foreign guests—arranging for their accommodation, their introductions, and their escorts. He did not take part in the confidential political conferences and consultations; he was always excluded from those; it was not within the sphere of his duties to take part in those meetings. It was the general rule that during any such confidential conferences he stayed in an adjoining room, and after the conference was over he took the foreign guests back to their quarters. When, in isolated cases, Dr. Meissner was present at some general discussions among a larger circle, he never spoke a single word; he was only a passive listener.

To paragraph 16 of the indictment

The charge in the indictment that Dr. Meissner was "present" at the signing of the Munich Pact of 21 September 1938, is just as incorrect as the further assertion that (among others) he "continued to foment a Slovak independence movement in order to further the Nazi program of aggression." Dr. Meissner had nothing to do with those efforts.

On the occasion of the visit of Dr. Hacha, the President of the Czech State, on 14 March 1939, Dr. Meissner's activities were limited to the official formal tasks already described in general: he met President Dr. Hacha (and his daughter) at the station in Berlin; he took him to his quarters at a Berlin hotel, and he then took him by car to the conference with Hitler at the Reich Chancellery. After he had introduced Dr. Hacha, he retired immediately, and waited in the ante-room; he did not see Dr. Hacha until a break in the conference, due to Dr. Hacha's indisposition. Dr. Meissner did not enter the conference room until the early hours of the morning, that is, after the conference was over. He then took Dr. Hacha back to his quarters, and later on to the station.

Dr. Meissner did not participate in the political discussion itself and he was in no way informed about the details of that conference.

The other assertion is also untrue, namely that after the German troops had marched into Bohemia and Moravia, Dr. Meissner accompanied Hitler to Prague. Dr. Meissner cannot understand how it is possible that so many untrue statements could be included in the indictment, although they could not be substantiated by a single one of the documents submitted, nor through a single one of the witnesses who were called to testify in the witness stand.

To paragraph 20 of the indictment

Paragraph 20 of the indictment states that "in the presence" of the defendant Meissner, Japan was assured "that should she become engaged in a war with the United States, Germany would immediately participate." The prosecution has so far not stated the date and place when this promise was supposed to have been given, neither has it named the person who gave this promise. Dr. Meissner thinks that this statement probably refers to the visit on 4 April 1941 of the Japanese Prime Minister in Berlin, because Document 1881–PS, [Prosecution] *Exhibit 385,* was presented in connection with this visit. It is true that Dr. Meissner was "present" when this visit took place, but that was all; his "activities" again were limited to the above described general and technical arrangements for the welfare of guests. Dr. Meissner was not present at the confidential political discussions which, on occasion of this visit, were held between Hitler and von Ribbentrop on the one side, and Matsuoka and the Japanese Ambassador on the other; Minister [Gesandter] Dr. Schmidt's minutes of this conference show that Dr. Meissner did not actually take any part in the political discussion.

Dr. Meissner was not informed in any way of the contents of that political discussion; it was only from the indictment that he heard about the alleged German promise to Japan.

The only discussion of this kind at which Dr. Meissner was present, was the visit of the Japanese Ambassador Oshima, who came to see Hitler on 14 December 1941; the minutes on this meeting are contained in Document 2932–PS, [Prosecution] Exhibit 417, which was submitted to the Court. This was an isolated case for which there was a special reason. Dr. Meissner will prove that the sole reason for this reception of Ambassador Oshima was to confer on him the Grand Cross of the German Order of the Eagle. Since, however, all matters concerning decorations belonged to the official duties of the Presidential Chan-

cellery, its chief, Dr. Meissner, was present at the reception of Ambassador Oshima only in his capacity as Chief of the Awards & Decorations Office. After the order had been conferred, Hitler and Oshima had a political discussion, which Dr. Meissner had not anticipated. Reich Foreign Minister von Ribbentrop took part in this discussion, but Dr. Meissner did not say a single word. This can clearly be seen from the minutes taken at that meeting.

Count two: Common Plan and Conspiracy

To paragraph 25 of the indictment

The indictment charges Dr. Meissner with having "with divers other persons, during a period of years preceding 8 May 1945, participated as leader, organizer, instigator and accomplice in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace." Such a general charge, which is substantiated in no way, naturally does not prove anything. Dr. Meissner never knew or heard anything about such a plan and therefore could not take part in it in any way. Consequently, there is no reason, and it is not possible, for Dr. Meissner to take up any position with regard to this charge, since the prosecution has not even attempted to state any concrete facts incriminating Dr. Meissner in this respect, let alone prove them.

It is possible that, including Dr. Meissner in this general charge, the prosecution took into account the fact that Dr. Meissner remained in his office in 1933 and the years following; this was, perhaps the reason why blame was laid on him that through his continued stay in office during the period of the Third Reich he supported Hitler's plan in some way or other. If this should actually be the opinion of the prosecution, Dr. Meissner will point out and prove in his defense that his intimate personal loyalty to the old Reich President von Hindenburg did not allow him to desert Hindenburg while he was alive. After Hindenburg was dead, Meissner, as he will prove, repeatedly asked Hitler to release him from office; but he was repeatedly denied this release. The reason Dr. Meissner stayed in office also under Hitler was that he believed that through staying there he might be able to counteract a further spreading of the tyranny; he did it, hoping especially that through his handling of clemency matters and through his intervention on behalf of people who were persecuted because of race, religion or for political reasons, he could prevent some wrong and could maintain the principles of a constitutional state. For Germans who had nothing to do with the Party, and especially for persecuted persons, Dr. Meissner often was the last

resort for their troubles. Dr. Meissner will show that he always endeavored to counteract the system of judicial terror under Hitler's dictatorship through acts of clemency, and that he tried, with a great deal of success, to sabotage the National Socialist methods of violence. He saved the lives of many hundreds and thousands of people, Jews as well as Christians, not only of Germans, but also of foreigners especially Alsatians, Frenchmen, and Belgians. Those efforts, as he will prove, constituted actually his alleged "support" of Hitler's tyranny.

Count four—Crimes against Humanity Committed against German Nationals from 1933 to 1939

To paragraph 30 of the indictment

This paragraph contains general charges against the defendant Dr. Meissner that he—with divers other persons during the period from January 1933 to September 1939, that is, during the time before World War II—participated in crimes against humanity against German nationals. This count of the indictment has become irrelevant through the decision of the Court of 26 March 1948. Nevertheless, Dr. Meissner wants to prove to the Court publicly that, according to his constantly maintained attitude and on the basis of his consistent way of conducting his official affairs for decades, he is not even capable of such actions as are charged against him.

To paragraph 31 of the indictment

This applies especially to the charge that Dr. Meissner participated in legislative measures in order to initiate and execute "a program of persecution of German nationals, on political, racial and religious grounds." Though the prosecution did not produce any evidence which would reveal that Dr. Meissner in any way took part in the outlawing of the political opposition parties or in destroying German trade unions, in the fight against the churches, or in the persecution of the Jews, Dr. Meissner will prove that he did not only oppose the terrorism of the concentration camps, but that he actually fought against it wherever he could, and that he helped persecuted persons with all the means at his disposal.

To paragraph 34 of the indictment

It is, furthermore, incorrect to assert that Dr. Meissner, too, participated in planning, ordering and executing "legislative, administrative and police measures," depriving especially "Germans of Jewish extraction, of every conceivable right and economic positions that they might have had as German citizens or

even as human beings," especially in order to bar them from the professions, the arts and sciences, from all public service, and from the universities.

In reality, Dr. Meissner never took any part in any of these measures; on the contrary, he sharply criticized them and disapproved of them. It will be proven that in many cases he approached the competent authorities to make exceptions in favor of Jews, and that he gave active support to the appeals of many Jews who turned to him personally, or to his office, by taking their cases up with the respective authorities, in many cases completely successfully, and he did this, in spite of endangering himself and risking his own position.

In this connection Dr. Meissner will prove that this attitude did not only expose him to vicious criticism on the part of many fanatical Party members, but that he also aroused the distrust of the SS and of the Gestapo, and that he was constantly spied upon and watched by those people.

Count five—War Crimes and Crimes against Humanity, Committed against German Nationals and Nationals of the Occupied Countries between 1938 and 1945

To paragraph 38 of the indictment

This paragraph includes Dr. Meissner in the general charge that he participated in some way in war crimes and crimes against humanity directed against the civilian population of Germany and of the occupied territories during the period from March 1938 to May 1945. Unless this charge is specified in more detail and it is stated what Dr. Meissner is actually supposed to have done in this direction, this count of the indictment cannot even be considered.

To paragraph 41 of the indictment

The only concrete facts in connection with which Dr. Meissner is mentioned are: "Pleas of clemency were filed with and reviewed by the defendant Meissner, prior to their submission to Hitler." With regard to this charge Dr. Meissner wants to point out already now that he cannot understand at all how such activities can, as such, be interpreted as crimes against humanity, or the participation in such crimes. The prosecution would at least have to claim that Dr. Meissner carried out his office in such a brutal and harsh manner that for this reason alone his way of handling clemency pleas can be considered as a crime against humanity. Even the prosecution does not raise any such claim! If, however, it is the official duty of a civil servant to handle clemency pleas, and if, in the execution of this duty he

endeavors to mitigate hardships and to even out injustices, he does not commit a crime, but acts in a manner which merits credit from the point of view of humanity.

Incidentally, the charge that Dr. Meissner handled and examined clemency pleas of condemned nationals of the occupied territories before they were submitted to Hitler is only partly correct even with regard to the actual facts; for he was not competent for the handling and submitting of clemency pleas concerning sentences pronounced by military courts; this right was reserved for the Chief of the Wehrmacht High Command; Dr. Meissner had nothing to do with it. From 2 September 1939 (i.e. since the beginning of World War II), Hitler's right to grant pardon had been delegated to the Reich Minister of Justice, and he was authorized to have death sentences pronounced by courts carried out without requesting Hitler's decision. Only in doubtful cases, or in cases of special political importance was he to inquire of Hitler whether he wanted to use his right to grant a pardon. From this date on, Dr. Meissner was therefore only in charge of the remaining clemency pleas concerning sentences passed by the civilian courts, to the extent that they were passed on to Hitler or to the Presidential Chancellery.

Dr. Meissner will, however, prove that on his own initiative he took up numerous cases when clemency pleas of condemned persons or of their families were addressed directly to Hitler, to Dr. Meissner, or to the Presidential Chancellery whether they came from civilian or military spheres; he studied and reported those cases too; he always did that with the intention of preventing the carrying out of the death sentence. *This*, after all, is the decisive factor, and not whether an official has anything to do with clemency pleas, as seems to be the opinion of the prosecution.

With regard to the manner in which he carried out his functions concerning clemency pleas, Dr. Meissner will prove that he always advocated the principles of justice and humanity, and that in countless cases he saved Germans and foreigners from being executed. Furthermore, he will prove that in order to achieve this goal with Hitler, he often used means which some day might have become dangerous to himself had they ever been discovered: he purposely left out some of the incriminating factors in his reports and, on the other hand, he especially emphasized extenuating circumstances and often exaggerated them. In other cases he generalized a decision which Hitler had made for one individual case and adapted it on his own responsibility to other similar cases, without asking Hitler's decision, as it would actually have been his duty to do. In many cases, espe-

cially during the last years of the war, he delayed the decision on a clemency plea until the war should be over; when, in such cases, the executing authorities made inquiries, he always answered that Hitler himself had ordered it that way. Naturally, Dr. Meissner was fully aware of the fact—and he will prove that —that by acting in this way he would encounter strong opposition from Party agencies, especially from Reich Leader Bormann, and the Alsatian Gauleiter Wagner at Strasbourg, from the Gestapo and the SD, and that he was taking a grave risk. However, he took that risk because, in such cases, he saw no other way to save a condemned person.

To paragraphs 44, 46, and 47 of the indictment

These paragraphs repeatedly mention "the defendants" who, in addition to those mentioned by name are supposed to have committed this or that crime; Dr. Meissner's name, however, is not mentioned in those paragraphs of the indictment; it may, therefore, well be assumed that Dr. Meissner is not indicted under these charges.

Count six—War Crimes and Crimes against Humanity: Plunder and Spoliation

To paragraph 52 of the indictment

The introduction of paragraph 52, with which count six of the indictment begins, mentions among the names of many other defendants also that of Dr. Meissner. Since, however, his name is not mentioned any more in the other paragraphs of the entire count six (pars. 52 to 60), it may well be assumed that the mentioning of his name at the beginning of paragraph 52 is due only to a mistake in writing in the indictment.

Actually, Dr. Meissner never had anything to do with any measures, aiming at "spoliation and plunder in the occupied territories." If, however, in this connection the prosecution has in mind Document NG–2995, Exhibit 810, Dr. Meissner wants to point out that this document speaks not against, but for him. As proved by the above-mentioned document, the Belgian King had asked the German Envoy Kiewitz, assigned to him as his companion, to see to it that the fate of the Belgian soldiers who were held as prisoners of war by the Germans be alleviated, and that the treasury of the Belgian state be returned to Belgium. Envoy Kiewitz forwarded these requests of the Belgian King to the Presidential Chancellery of Dr. Meissner; Dr. Meissner forwarded them to the German Reich Minister for Economics, to the Reich Foreign Minister, and, in order to be on the safe side, also to the office of Hitler's adjutant, so that the wishes of the

Belgian King should receive attention. Dr. Meissner never had anything to do with such matters; he was in no way competent for them. He considered it, however, his natural duty not to let such a letter from the Envoy Kiewitz remain unattended in his office, but to forward it to the proper authorities, who were in a position to do something about it. It is hard to understand why such a procedure should be criminal.

The affair of the Riding School, Berlin
(Witness: Paul Weiske)

The prosecution confronted Dr. Meissner with one single witness for this case. He was the Berlin industrialist, Paul Weiske. Dr. Meissner wants to mention already at this moment that this case does not come under the jurisdiction of the American tribunal, even if all the assertions and assumptions stated by the witness Weiske were true. The facts of this case were actually quite different from the way Weiske described them. Dr. Meissner will prove the following facts:

When, in June 1939, Weiske was arrested for the first time and, at that time was interned at Sachsenhausen concentration camp, Dr. Meissner took great pains to have him released; he succeeded after 9 months, and Weiske was once more able to take charge of his enterprises. Weiske and his wife then expressed their great appreciation and thanked the defendant Dr. Meissner for his intervention. Dr. Meissner naturally had no part in Weiske's second arrest (Oct. 1941); either it was obviously the consequence of a denunciation by some other person (possibly a dismissed employee of Weiske's), or was effected upon the initiative of the Gestapo itself. At any rate, Weiske had also subsequently shown himself to be an unusually brutal and asocial employer; besides, contrary to the lease he had signed, he did not run the riding school as a nonprofit organization, but as a purely profit-making enterprise. After Weiske had been arrested a second time, the owner of the property, a government agency, canceled Weiske's lease, disregarding the regular date for giving notice, owing to gross violations of the terms of the agreement; Weiske recognized and accepted this irregular notice. He could have been forced to vacate the property immediately and tear down the buildings and installations which had been erected on that property; he could only have sold them as salvage material, which means that he would have suffered a great loss. A number of Berlin riding enthusiasts—one of them being Dr. Meissner—founded a nonprofit-making sports association in the interest of horseback riding, and this association bought the riding school at an absolutely adequate price. Each of the two parties in-

volved (the owner of the property and Weiske) called in an expert; these experts fixed the sales price impartially. In this way Weiske was paid one quarter of a million marks, a sum which at that time still had its full value. Under any other circumstances Weiske would have lost the greater part of his invested capital.

Dr. Meissner will prove that he himself did not exercise any pressure whatsoever upon Weiske to sell that riding school, neither did he participate in any such methods to exercise pressure, nor was he personally interested in that entire affair, apart from his interest in the nonprofit-making association for horseback riding and in preventing the SS from taking over the Berlin riding school.

These are the true facts; all assumptions and combinations on the part of the witness Weiske derive from his inclination to make trouble, from his gross ingratitude towards Dr. Meissner, who had saved him from the concentration camp, and from his efforts, through denouncing Meissner and testifying against him in this Court, to create some basis for claims for damages which he wants to obtain from his former stable manager Esche, from the defendant Dr. Meissner and perhaps from all sorts of other people.

At any rate, Dr. Meissner through the evidence which he is going to submit, will show that the testimony of the witness Weiske is completely untrustworthy, and that he, Dr. Meissner, observed the laws of humanity and justice also in the case of Weiske, and that he contributed to a large extent to the correct and fair settlement of the Weiske affair.

III. Presentation of Evidence for Dr. Meissner

Dr. Meissner intends to substantiate his evidence through—

1. His own testimony under oath.

2. Various letters and documents which will clarify Dr. Meissner's activities caused by Hitler's seizure of power.

3. A number of affidavits given partly by German, and partly by foreign witnesses, the purpose of which is to show Dr. Meissner's character and the way he conducted his official duties. Two or three of these witnesses will be called to testify in person in the witness stand; neither the names nor the number of defense witnesses to appear personally can as yet be given.

Nuernberg, 17 April 1948

[Signed] DR. SAUTER
(Counsel for the defendant Meissner)

O. Opening Statement for Defendant Dietrich*

DR. BERGOLD (counsel for defendant Dietrich): Your Honors, the prosecution charges my client, the former Reich Press Chief, Dr. Otto Dietrich, with having created, organized and dominated the press and propaganda policy of the NSDAP and the German Government, and that he did this for the waging of wars of aggression and the preparation thereto, as well as for the direction of propaganda concerning the same. According to the prosecution, Dietrich is alleged to have committed these acts as a participant in a conspiracy which is said to have concerned the planning and execution of these wars of aggression. Dietrich is further alleged, in his directives to the German press, to have called for the murder of Allied airmen after parachute landings by his directives to the German press. In conclusion, Dietrich is alleged to have participated in crimes against humanity by the manner of his direction of the press, by taking it upon himself to represent to the German people the ostensible reasons and justification for the mass slaughters of Jews, and to incite the people to these slaughters.

In a nutshell, that is the charge which has been raised. In order to justify this charge, the prosecution has tried to reverse the clever device of the currency reform. The German currency reformers have made one out of ten. In its evidence against Dietrich the prosecution has made a ten out of one. Namely, it has tried to make out of Dietrich, who held a highly controversial position of minor importance within the German press organization, the most important man connected with press and propaganda. The prosecution performs this conjuring trick by juggling away the man who was considered by the entire world public as the true master and genius of German press and propaganda, throughout the entire duration of the Third Reich, namely Goebbels. May I make an amendment here for the interpreter. There is a false translation here. I did not say the "genius" of the German press. I never considered Goebbels that. The English should be not "genius," but "demon of the German press."

Who in the world, before this trial, really recognized Dietrich as the sole master of the German press? Your Honors, dig deep into your memories! I am certain that in the past you only heard the name of Goebbels. Goebbels was the man whom the man in the street in all countries recognized as the most powerful man in the Third Reich next to Goering and Himmler. The editor of a well-known book has described Goebbels as "The Man

* Delivered on 26 July 1948 (*Tr. pp. 13616–13627*). The final statement of defendant Dietrich appears in section XIV, volume XIV, this series.

Next to Hitler."* Without world-wide laughter making this title contemptible as advertising fanfare, would Mr. D. McLachlan have been able to choose this title if Dietrich had been the true master of Germany's propaganda machine? However, it would never have occurred to any editor to give Dietrich this name.

It is indicative that even in Germany Dietrich was as good as unknown. Whenever I have told anybody that I had to defend Dietrich they immediately thought of the well-known SS General, Sepp Dietrich. I always had to point out that by the Dietrich defended by me, I meant the Reich Press Chief. This shows how unimportant the defendant appeared even to Germans. The prosecution must be in a bad way if it seems necessary to distort the truth as has been done in the evidence up to now.

The prosecution has constructed its material out of purely theoretical considerations which it obtains from the empty verbal designations of offices and titles which Dietrich held. Even in the world of democracy, however, descriptions of offices and titles say nothing as to whether and to what extent the bearer of these titles possesses real power. In the Third Reich, the Reich of empty and swollen designations for titles and offices, nobody can find the truth if he goes merely by the words, and does not accurately and eagerly investigate the true power relationships. This, however, the prosecution has carefully and skillfully avoided.

I shall prove by documents and witnesses that Dietrich did not possess the influence on the German press which is alleged by the prosecution and some witnesses, some of whom are uninformed and some interested in their own justification and therefore not objective. By means of the most unquestionable material which can be found in this trial at all, namely, by means of Goebbels' diaries and the passages corresponding to these diaries in the so-called Brammer and Oberheitmann material, as well as in the "Voelkischer Beobachter," I shall make it clear that it was Goebbels who chiefly, besides propaganda, also directed the German press. Goebbels was the Minister, Dietrich only his State Secretary. Goebbels was undeniably the chief figure of all German propaganda. The prosecution itself has not been able to present a single exhibit, a single witness, to the Tribunal who could have supported the original thesis of the prosecution that Dietrich also directed propaganda. Even according to the evidence of the prosecution it can no longer be denied that Goebbels directed the entire propaganda in collaboration with Hitler. It needs only an elementary student of politics to point out that a man who directs all the propaganda of a state must therefore,

* "Goebbels—The Man Next to Hitler" by Rudolf Semmler with an introduction by D. McLachlan and notes by G. S. Wagner (Westhouse, London, 1947).

by the very nature of things, also have the most decisive influence on the press.

However, the prosecution has not only suppressed the fact that Goebbels was the master of the press, but it has also, by making use of the testimony of the witness and sorcerer's apprentice, the Envoy Dr. Paul Karl Schmidt, tried to conceal with the juggler's handkerchief the fact that the Foreign Office, that is to say, von Ribbentrop, controlled the entire foreign political opinions and attitude of the German press. However, the man who provided von Ribbentrop with the best assistance for this, was this very witness, Schmidt. Schmidt was von Ribbentrop's confidant. He was one of the very few civil servants who was present at the secret proceedings of the Foreign Office, proceedings concerning which secrecy was imposed, as you, Your Honors, will be able to recall from the testimony of the witness, Gaus. Schmidt, therefore, was closely acquainted with all of von Ribbentrop's dark plans. He was von Ribbentrop's press chief. If there can be any talk at all about a conspiracy of the press with reference to the planning and waging of wars of aggression, then this witness Schmidt supported these plans by the directives which he gave to the press without, to be sure, anyone else being able to recognize the secret aims of these plans. This man who, therefore, had every reason to hide his tracks, has testified here as a witness against Dietrich. He could not testify correctly without incriminating himself. I shall prove through documents and witnesses that the statements of the witness Schmidt were actually false, that he has concealed the truth from the Tribunal in an unheard-of way which can be expressed by saying that in matters of foreign policy he, and through him, von Ribbentrop, for the most part had the German press on leading strings.

I shall further make it clear through testimony and documents that Dietrich's work was limited to passing on specific orders by Hitler concerning various contemporary newspaper reports, and to looking after the proper formulation of the desires and orders brought forward by the other Reich departments in the daily paroles. I shall prove that Dietrich had no influence at all on the factual content of these orders. I shall also show, however, that Dietrich did not receive or possess any information or documents for the orders transmitted by the other Reich departments, especially the Foreign Office, so that he was by no means in a position to form his own judgment on the expediency and significance of such orders. Dietrich, therefore, would not have had any opportunity to plan and carry out a press policy of his own, even if such a task had been incumbent upon him.

However, besides that, I shall prove by witnesses that Hitler discussed the principles of press and propaganda policy exclusively with Minister Goebbels himself, and that no one informed the defendant Dietrich about the contents of such important conferences. Since I shall finally make it clear by witnesses and documents that Dietrich never learned anything in Hitler's entourage about military and political plans, since, besides that, it will be proved that Dietrich did not possess any previous knowledge of the wars of aggression which have been placed under indictment, the prosecution will have to produce proof that Dietrich was involved in the conspiracy, that he knew of the plans and preparations for the wars of aggression. Up to now it has neglected to do this, and I could even spare myself the trouble of producing any counter-proof.

In my document books I shall quote to you passages from the verdict of the International Military Tribunal from which it appears that at that time the prosecution was required to produce proof in every individual case of knowledge by the various defendants of the planning and preparation of wars of aggression.

I have already argued that, in the case of the defendant Dietrich, the prosecution has not yet produced any proof. The fact that lively newspaper campaigns were carried on at times between the German press and the press of certain states is no proof that Dietrich had knowledge of the plans and preparation of wars of aggression. The Tribunal must not disregard the fact that in the trial before the International Military Tribunal the defendant Fritzsche, who as Dietrich's subordinate issued the press directives at that time—to be sure, as I shall prove, with much dependence on Goebbels—was acquitted of the charges against him. Newspaper polemics occur all over the world. They are customary even today. If humanity should be visited by the unspeakable misfortune of a war between the Western Powers and Soviet Russia—naturally, this being mentioned only as a complete hypothesis—who could then arise and accuse the press only because in times of tension, which occur again and again between states, it attacked the standpoint of the other state, and defended that of its own state, in mutual recriminations? This would be absurd. But it is also absurd if one accuses the press of the Third Reich of having defended the standpoint of the German Government. Not until the press had known that a war of aggression was to be waged would its conduct have been criminal, if it gave incitement to a war of aggression. However, as long as the press and its controllers do not know that, even press campaigns planned in advance for winning foreign political objectives are justified. Besides that, however, I shall corrobo-

rate by witnesses—in the case of the witness Fritzsche this proof has even been already advanced—that both in the case of the Czechoslovakian crisis and the Polish, the press of the enemy state in question began a lively campaign in each case, even before the German press; also that, even in the case of Poland, the Polish press, which was controlled by its government, made territorial demands on Germany before the German press. At that time, it already demanded for Poland the Oder-Neisse Line, which has become so well-known today. Does the prosecution seriously expect such an unnatural attitude from the German press, that it is to be silent under such attacks, that it does not support the theoretically justified goal of the reunion of Danzig with Germany? And just as it was in the case of Poland, so was it also in other cases, in which connection I should just like to point out quite briefly that, even before the war between our two countries, the press of the United States carried on a much sharper feud against Germany than vice versa.

Nor can any charge be derived from the fact that various German newspapers carried on bitter campaigns during the war against the Allies or against the so-called world Jewry. I shall prove that the Allied press, that various Jewish organs, frequently called for the complete annihilation of Germany, while directing attacks against Germany and the German people which exceeded all bounds. I do not want to make any accusation. This is a natural occurrence in wartime. But then, must the reply of the German press be looked at as something criminal? Even in antiquity the Homeric heroes insulted each other, and, as far as I can see, the Christian point of view of turning the other cheek after a blow has never gained acceptance in the field of the press.

In my opinion, however, all this clearly shows that it is inadmissible to draw conclusions from press polemics alone as to the knowledge or lack of knowledge of the defendant Dietrich regarding the conspiracy or the planning of a war of aggression. The prosecution has made it easy for itself, all too easy. However, no court in the world can work with assumptions and suppositions. Therefore, the prosecution cannot be relieved of producing the proof incumbent on it.

Added to this is the fact that, in my opinion, the prosecution has undertaken to extend criminal rules to an inadmissible degree by also placing under indictment the cases of Austria and Czechoslovakia. I ask the Tribunal to recall that these two incidents were not placed under direct indictment in the major case before the International Military Tribunal, and this was also right.

The provisions of the London Charter and the provisions of

Control Council Law No. 10, however, can only be regarded as legally valid if one starts with the assumption that it was the outlawing of war, but of war only, that was expressed by the Kellogg[-Briand] Pact. It was only the actual war of aggression that was condemned. All other means of policy, even if they might be otherwise morally reprehensible, were not outlawed. Therefore, if the Charter had gone beyond the condemnation and punishment of actual wars of aggression in such a case, it would obviously, even in the opinion of its authors, have violated that principle of any justice which says: *nullum crimen sine lege.* Control Council Law No. 10, which, however, for its part is based again on the Charter, can therefore likewise not declare actions a crime which did not lead to war.

The International Military Tribunal stated in its judgment that at no time did an over-all plan for the waging of all these wars of aggression exist in Germany, rather there was always only a number of individual plans which arose and were adopted from case to case.

All this the prosecution has disregarded. The fact that the press was controlled at all is not criminal. I shall prove that a very thorough and comprehensive control of the press also existed in the United States during and even before the war with Germany.

The fact that Dietrich called on the press in wartime to encourage the German people and to hold out and put up with their sacrifices cannot be made the object of an indictment. Just as little as the International Military Tribunal considered it a crime for the then defendant Speer to have worked for the increase and improvement of armament after the outbreak of the war, just so little can a man of the press be considered guilty because he strengthened a nation in its views during wartime. This is such a natural occurrence all over the world, and with all patriotic persons, that the demand to do the opposite and to act like a traitor to one's native land would immediately appear unnatural, and can only be directed at exceptional individuals. Insofar as the indictment is concerned, saying that Dietrich had called through the press for the commission of barbarities against captured Allied airmen, the prosecution has not been able to produce even the shadow of a proof under this count. It has merely submitted that, in directives to the press, Dietrich ordered that nothing be written about reprisals for air raids. It will always be an amazing mystery to me how the prosecution can conclude from such a directive, which on top of all that referred to the reprisal raids on England, that this should have been an incitement to murder airmen. Let me once suppose that

this directive really referred to airmen who had bailed out. How can an order not to speak about reprisals incite other people to murder? In this connection, I also intend to disregard the fact that this directive dates long before the time when Allied airmen were lynched and murdered. In any case, the ground upon which the prosecution has erected this pillar of the indictment seems to me more than shaky. However, I shall advance proof by documents that this directive did not refer to airmen who had bailed out, but exclusively to the raids of the German Air Force on England.

If I consider the final charge against Dietrich, namely, that through press directives he caused the German newspapers to represent to the people the ostensible reasons and justification of the mass slaughters of Jews, and to incite it to such slaughters, then I can state that in this count likewise the prosecution has not advanced any satisfactory evidence as far as the daily paroles are concerned, for which alone a kind of partial responsibility could be laid on the defendant Dietrich. For the most part the prosecution has only been able to submit so-called V.I.'s (confidential information bulletins), some of which to be sure, were also announced at the press conferences. However, I shall prove by the testimony of witnesses and documents that Dietrich bore no responsibility whatsoever for the confidential bulletins, that they were not instigated by him, and he even never became familiar with them. The witness Fritzsche has already confirmed this briefly and to the point.

But even these confidential bulletins in themselves are innocent within the meaning of the indictment. It should not be overlooked that the International Military Tribunal did not convict Fritzsche on this count either, although it was able to assert that Fritzsche was anti-Semitic, and that the instructions issued by him at the press conferences often had an anti-Semitic tendency. The International Military Tribunal, however, was compelled to state that Fritzsche's press directives never called for a persecution of the Jews or for atrocities. The acquittal by the International Military Tribunal, accordingly, also applies to the defendant Dr. Dietrich; for no other press directives at all were issued by Dietrich's office.

To be sure, in the so-called Periodical and Weekly Service the prosecution submitted material which might sound objectionable and which was not issued by Fritzsche. However, I shall prove by witnesses and documents that Dietrich never had anything to do with these, that he did not see this Periodical and Weekly Service, that the responsible man, namely, a certain Bade, was in exclusive collaboration with Goebbels—with Goebbels who

was Dietrich's and Bade's superior. I shall prove that because of Goebbels' great interest in it, Dietrich relinquished his influence in the Periodical and Cultural Press Department to the latter alone as his superior minister, a proceeding which was completely in order. If a minister himself directly supervises the direction of a department, if the director of a department lets himself be guided only by the minister with respect to the tasks of a department, then there ceases to be any responsibility on the part of a State Secretary. This is borne then by the minister and the department alone.

However, besides this I shall show that Dietrich never knew anything about a plan which was aimed at the annihilation of Jewry. I shall prove that Dietrich was tolerant, that he was a moderate anti-Semite, as are also found in other countries and parts of the world. The evidence will likewise prove that Dietrich had no influence at all on the individual newspapers and the articles in them. Nothing is more distorted, nothing more false, than the opinion of one witness that Dietrich was a chief editor of all German newspapers. Through Dietrich's office only general directives which are contained exclusively in the daily paroles were sent out to the newspapers through the agency of the press conference. Criticism of the press was exercised in detail by Goebbels himself at the Goebbels' ministerial conference. The Chief of the German Press then passed on those criticisms. The fact that in a purely theoretical sense this Chief of the German Press was still subordinate to State Secretary Dietrich in the chain of command from the Minister down, has no significance. Goebbels, who expressed the criticisms, and had them orally presented at the press conference by the Chief of the German Press, was the Minister himself, he was the top superior of this Chief of the German Press. The proofs will be numerous that Goebbels regularly, and to a great extent, issued his orders to the Chief of the German Press.

In examining the entire circumstances of the case, the fact should not be disregarded—the prosecution, to be sure, has done this—that Dietrich was almost never in Berlin on the spot, but on the contrary he always had to stay in Hitler's entourage in order to render the latter the journalistic services which he required. Thus, for technical reasons alone it was not possible for Dietrich to supervise and control the German press in detail from afar, especially since there was never any preliminary censorship.

I am convinced that, at the conclusion of my evidence, Dietrich's acquittal will be clear as daylight.

P. Opening Statement for Defendant Berger*

DR. FROESCHMANN (counsel for defendant Berger): Mr. President, Your Honors. The Chief Prosecutor, in his opening statement of 6 January 1948, has described the trial against von Weizsaecker and others as the trial pertaining to the central and economic administration of the German Reich, and he represented this symbolically by the Berlin Wilhelmstrasse, behind the pompous façades of which these "grey eminences" of the Third Reich exercised the full power of their office. And, in fact, the Chief Prosecutor was right in saying that the central factors of his statements were policy and economy, which characterize the nature of this trial as a whole.

The wealth of documentary material has been compiled with great diligence and comprises almost two hundred volumes. This documentary material is to make the policy and economy of the Third Reich the subject of a juridical decision, which decision is to be based on a law which is directed in a one-sided manner against the defeated, to lay on these men for all eternity the curse of being guilty of the catastrophe which overtook Europe.

Almost 3 years have now passed since the day when the International Military Tribunal passed its judgment. That judgment was to create a basis for a new international law which was to bring peace and order to the world. The immediate cause of all this turmoil is dead, and with him died a system which, according to the language of the Prosecutor, intended nothing but to pursue malicious plans. The followers of that man have fallen victims to the prescriptions of a modern Sulla, and those allegedly responsible for the crimes, deprived of their liberty for years, have been separated from their families and have been defamed. Any political influence whatsoever has been made impossible for them.

In these days democracy in Germany is celebrating its one hundredth anniversary. Nevertheless, turmoil and unrest has remained throughout the world. Today, once more, we are on the eve of decisions, which are capable of destroying not only war-weary Europe, but the whole world. Was it really only Germany's alleged desire for "Lebensraum," was it really only the craze for a "master race," which claimed the blood of millions of people? Are there not still forces at work, the same as they were ten years ago—ideologies which, in conjunction with military power of a dimension not even recognized today, are stretching out their claws to pull down everything into the turmoil of a wild chaos?

* Delivered on 20 May 1948 (*tr. pp. 5913–5915*). The final statement of defendant Berger appears in section XIV, volume XIV, this series.

The struggle against such world-destroying ideas as communism and bolshevism, is the call which, with the approval of a world anxious to rebuild, comes from the mouths of responsible American statesmen to the nations of the world. The struggle against bolshevism was the leading motive of Berger's SS policy, of the Germanic Directorate [Germanische Leitstelle], and it is on these grounds that the American Prosecutor-in-Chief is today indicting him on the charge of crimes against humanity. Perhaps the prosecution is aware of the weakness of its position, but it may not be aware of the insecurity of the entire foundation on which it bases this charge, and events may take place tomorrow that may force the Prosecutor's own land to tread the same path in the very near future.

At the very end of its case-in-chief, the prosecution has overwhelmed the defendant with a wealth of documents. These documents, taken out of their context and construed in such a manner that they confuse fiction and truth, are intended to incriminate Berger with all the crimes which the Control Council Law No. 10 endeavors to enumerate.

Higher motives for his actions are excluded by the prosecution in its evaluation of Berger. Therefore, in view of that, it will be the duty of the defense, quite apart from the handling of a few legal questions, to clear the almost impenetrable undergrowth of prosecution documents, to show the truth, and to produce justification for the policy pursued, a policy and a truth which may safely face the judgment of history and posterity, even though the time was not ripe then for such policy to be pursued. My case-in-chief will take all that into consideration.

I have subdivided my defense into five chapters:

1. The personality of Berger.

2. Repudiation of the charges directed against him for crimes against humanity.

3. His position as Chief of Prisoner of War Affairs.

4. His position in the East Ministry [Ministerium fuer die besetzten Ostgebiete].

5. His position as Chief of the SS-Main Office [SS Hauptamt].

Mr. President, will you now permit me to begin my case-in-chief?

JUDGE MAGUIRE, PRESIDING: You may proceed.

* * * * * * *

Q. Opening Statement for Defendant Schellenberg[1]

DR. MINTZEL (counsel for defendant Schellenberg): Mr. President, Your Honors. The defense for the defendant Walter Schellenberg does not introduce its first statement in these proceedings with assertions concerning the lack of valid legal bases for this Court and the proceedings. This is not because it is convinced about the existence of these bases, but it leaves it to those of its fellow defense counsel who have been appointed as representatives of the principal defendants to say that which is necessary in this connection.

Apart from these questions as to the bases of this trial, however, I wish deliberately to make my client stand out from among the group of his codefendants. For in defendant Walter Schellenberg the prosecution apparently meant to bring the youngest alleged war-plotter and conspirator, and certainly also the one of the lowest rank, before a Nuernberg Military Tribunal. He was 29 years old in 1939, when the war broke out, and had only become government counsellor in that year, and this rank is the first actual service rank of a public official after passing the legal state examination.

The defense will briefly present the personal, professional, and political career of the defendant to this date. Then it will clarify the nature of his participation in the few events which the prosecution will have to exploit in order to prove its theory of a criminal participation on the part of Walter Schellenberg in the planning and waging of aggressive wars.

First, with respect to the Venlo incident; second, relating to the formulation of the Wagner-Heydrich agreement concerning the conditions of command and competence between the Wehrmacht and the Einsatzgruppen:[2] It will be seen that this young man neither participated in the planning, preparation, initiation, and waging of aggressive wars and invasions of other countries in a manner which would justify the prosecution, nor did a truly responsible person collaborate with him in the making and executing of a common plan and conspiracy to violate the peace, let alone such a spirit of conspiracy originating with him.

However, it will also be shown that the participation of Schellenberg in the formulation of the Wagner-Heydrich agreement cannot imply participation in the perpetration of war crimes and crimes against humanity, even if the prosecution attempts to establish a connection between the defendant and the

[1] Delivered on 11 May 1948 (*tr. pp. 5027–5032*). The final statement of defendant Schellenberg appears in section XIV, volume XIV, this series.

[2] The activities of the "Einsatzgruppen" (Special Action Groups) were the subject of a separate trial in Nuernberg. See Volume IV, this series.

agreement by means of a document book full of reports of events with which he never had anything to do.

Apparently realizing the instability of the structure of the indictment, which was first based on not more than two concrete facts, the prosecution has submitted some additional documents, without the indictment containing even a suggestion of charges based on facts other than those mentioned thus far. The defense will clarify the real meaning of these documents, and in this connection take a definite position on the so-called final solution of the Jewish problem. It will be shown that the defendant was not connected with the criminal plans in this respect. On the contrary, his occupation in the Reich Security Main Office (RSHA) led him, by gaining information of the *modus operandi* of enemy agents for Foreign Group IV E—Counter-Espionage—to the sphere of work which he had aimed at from the start, namely, the activities of the German agents in foreign countries Department VI—Foreign Intelligence Service of the Reich Security Main Office. The defense will have to take up the personal position of the defendant in the RSHA in greater detail in this connection. In discussing counter-espionage activity, it will also state its views in regard to the fruitless attempts of the prosecution to make Schellenberg a deputy of the Chief of Office IV, Mueller.

Finally, we see Schellenberg as Chief of Office VI of the German political secret service for abroad. It was only under Schellenberg's direction that this secret service became—moreover, in the midst of the war—the instrument for information regarding the plans and intentions of other countries and their peoples, which is essential for every government administration. The defense will show that the small segment of the activity of the secret service which the prosecution drags into the limelight, namely, "Operation Zeppelin," within whose framework Russian volunteers were employed as agents against Soviet Russia, had nothing to do with the segregation of Russian prisoners of war, which latter operation was carried out under the direction of Office IV, pursuant to special decrees.

But we cannot be satisfied with that. The prosecution has called Walter Schellenberg a close cooperator of Himmler's and Heydrich's. At the period to which we will now have come in our defense, it would be possible for the first time rightly to describe Schellenberg in this way unless the defense could prove that he was not a "close" but just an ordinary cooperator, and this only with respect to his purely official activity and his rank step by step; but certainly not in the meaning of a participation in any act which could be the subject of legal proceedings before this or any other Tribunal. In order to prove this fact, the

defense, on its part, must bring to light before this Court and also before the public the full extent of the activities of the defendant in his capacity as Chief of the German Intelligence Service.

This scrutiny will prove that this man who, according to the prosecution, lent his talents with preference to the criminal aims of the National Socialist leaders of the State, actually endeavored to bring about a transformation of the regime in Germany; to stave off the terrors of war from Switzerland and the North of Europe; to bring about the end of the war by way of a compromise with the Western Powers, and possibly by a more or less modified capitulation, eventually; and that he used all his influence in order to save Germans as well as the nationals of neutral and allied nations from persecution and, in many cases, from direct threats to their lives; and, most of all, to help Jews and other inmates of concentration camps to regain their liberty and to save them from a certain death.

Most certainly, the prosecution will have something to tell us which may minimize and obscure these activities. But the very acts of the defendant will speak for themselves in a way that documents will never be able to do, and those who were saved will speak through the mouths of competent witnesses.

In the course of the presentation of the evidence for the defense, the Court will see that the development of the defendant followed along straight lines. Not along the road of a so-called veteran of the National Socialists, but along the path of a young German who had to find a goal for his life and profession in the particular political situation of his country, into which he was born. Walter Schellenberg found this goal in the creation of a sound and uniform German Intelligence Service abroad. To this end he devoted his full energy unto exhaustion. When the defense has given due consideration to the indictment with respect to the whole of the actual activities of the defendant, and has shown that he kept aloof from any attitude of adherence to National Socialist doctrines, and that he avoided in his work all spheres which could have brought him into conflict with criminal law, then it will have proved likewise that his membership in the SS and SD was not such as to brand him as a criminal member of a criminal organization.

At the end of the indictment it is said that the suppression of the truth was the vilest poison of the Third Reich. The Court has granted assistance to the defense in that a number of foreign witnesses could be visited in their own countries. By this attitude the Court has proved its unequivocal intention to find the truth.

It is perhaps the first time in the history of modern states that the chief of the political and military secret service of a country has been brought before a court. In this unusual situation the defense hopes not to be impeded in the presentation of evidence because certain facts must be mentioned which are still a part of the political history of the present day. The defense is convinced that the truth will be searched for and found, and that the defendant will be granted all rights which are his, regardless of momentary political conditions.

R. Opening Statement for Defendant Schwerin von Krosigk*

DR. FRITSCH (counsel for the defendant Schwerin von Krosigk): May it please the Tribunal.

When at the beginning of this trial I was asked to defend the former Reich Finance Minister, Count Lutz Schwerin von Krosigk, I was then conscious of the fact that I was called to represent the interests of one of the men in Germany's public life about whose integrity there was, and still is, a consensus amongst friend and foe. No one in Germany or abroad who had a close insight into public problems has ever expressed doubts as to Count Schwerin von Krosigk's irreproachable attitude, personal impeccability and good faith. He has always been regarded as the embodiment of a German official in the best meaning of the term, coupled with the principles of a German aristocrat with a cosmopolitan attitude. Both these traits are based on and influenced by his education, and his innate Christian outlook, which always stood the test in even the most difficult situations. If a cloud of tragedy hovers over the fate of this upright man, it is manifestly due to the fact that he, an official without any political inclinations, which are remote to his very nature, on the basis of many years of activity and outstanding knowledge, reached the highest pinnacle of his official career as minister, and thus was pushed into the political arena without any efforts on his part. A large number of witnesses—and they are important witnesses with prestige and rank abroad and in Germany—have volunteered to testify to such a general estimate of my client. His name was always praised, as that of an irreproachable official, in literature abroad concerning the era just passed. I am unable to comply with the request of many witnesses to submit their statements to this Tribunal, because it is my en-

* Delivered on 23 September 1948 (*tr. pp. 22678–22694*). Extracts from the closing statement for defendant Schwerin von Krosigk are reproduced in section XIII, volume XIV this series. The final statement for defendant Schwerin von Krosigk to the Tribunal appears in section XIV, volume XIV, this series.

deavor to reduce the mass of evidentiary material. I have limited myself to introducing a number of opinions which I consider are sufficient to show to Your Honors a true picture of this defendant. In the course of presenting the defense evidence I shall have to refer to these matters in detail, and I shall describe the defendant's personality and sketch the conditions which induced him not to turn his back on a regime whose basic policies were bound in the course of time to appear to him as contrary to his innermost feelings, and to continue to carry out his duties to his nation as a German official—and especially to the blameless parts of it—in accordance with his convictions. As especially characteristic, however, appear two statements which I can quote here only in an abbreviated form, though I believe that they might be of decisive importance concerning the over-all judgment in this case. I reproduced on page 148 of supplement book II a statement by the former French ambassador in Germany, André François-Poncet, reading as follows:

> "I got to know him," meaning Count Schwerin von Krosigk, "as the symbol of a truly modest, noble German aristocrat, and at the same time as the embodiment of a reliable, correct and decent German official who could serve as a model to many other men."

In document book 1, page 8, the former Reich Chancellor, Dr. Heinrich Bruening, confirms the statement I made concerning Count von Krosigk's political beliefs, I quote:

> "In all purely political remarks to Herr von Krosigk I was always deliberately reserved, and confined myself to general comments, knowing that he lacked the most elementary experience and instinct in regard to party politics and political tactics. * * *
>
> "His attitude was in conformity with the old tradition of the Prussian civil servant which produced outstanding experts, who had the strongest sense of duty to their work and to the community, but whose lack of judgment in purely political questions was already frequently complained of by Bismarck."

Considering this basic attitude of Count Schwerin von Krosigk, I believe that it requires no detailed explanation to show that he never consciously propagated, and still less participated, in criminal actions. During my presentation of the defense I will show that even in an objective sense, Count Schwerin von Krosigk did not participate in acts against any of the laws applicable here.

Already in the opening statement of the prosecution it became evident that the American prosecution has tried to resort to assumption and incriminations similar to those that had been used in the trial against Schacht before the International Military Tribunal. Your Honors know that Schacht was acquitted on all counts of the indictment. In trying to summarize the charges leveled against my client here and to reduce them to the smallest denominator, the following picture emerges. The personal honesty of Count Schwerin von Krosigk is not impeached at all. He has not committed any crime through actions of his own, but the National-Socialistic leadership needed for their actions funds either for the wars they wanted to wage, or for any other deeds now condemned as crimes, and the Reich Ministry of Finance, as the administrator of these funds, made them available; or the same Reich Finance Minister took delivery, on behalf of the Reich, of funds and other property which the National-Socialist leadership had unlawfully acquired. Thus, these charges in the indictment are directed rather against the whole administration known as the Reich Ministry of Finance, than against the head of the organization himself. This action and the contention of the prosecution, however, show many great defects, and reveal, in particular, a considerable ignorance of the actual conditions. On the other hand, this explains why the prosecution has introduced in evidence against Count Schwerin von Krosigk documents with which the latter, neither in his capacity as minister nor personally, had anything to do at all.

The basic tendency of the prosecution makes it necessary for the defense to set forth, in its case-in-chief, the actual and legal conditions, and the organizational and administrative basis of the supreme leadership and especially of the Reich Ministry of Finance. For this purpose I shall submit a considerable number of statements by reliable experts; experts to whom the prosecution will not deny the right and the authority to give an opinion on these matters. As far as these statements have to be supplemented, I will have them supplemented by the defendant on the witness stand as concisely as possible.

Count Schwerin von Krosigk has been charged by the prosecution on four counts. At this juncture I can, as a matter of course, only outline a general scheme concerning the presentation of evidence in the case for the defense. I think, however, I cannot do this any better than by first outlining, in a few general sentences, the development of the ministry with which Count Schwerin von Krosigk was connected since 1920 in a variety of positions.

Two periods will have to be stressed:

1. The development of the Reich Ministry of Finance during the transition from Imperial Germany to the Weimar period *and* its position under the Weimar Republic.

2. The development of the Reich Finance Ministry in the period from 1933 until the collapse in 1945.

According to the separatist principle prevailing under the Weimar Republic, the Reich Minister was vested with a far-reaching measure of independence under the control of the individual agencies. No other Reich Minister, not even the Reich Chancellor—unless, in the case of the latter, it concerned policy-making—was authorized to intervene in the sphere of business of another minister or to issue instructions to him. This was particularly important for the Reich Finance Ministry, and the control which the Reichstag, and the committees provided for this purpose, exercised over the Reich Finance Ministry was at the same time its strongest support, above all in the efforts, made by every finance minister to use the available funds as economically as possible. The independent position of the Reich Minister of Finance, and the Reich Ministry of Finance in particular, was changed fundamentally—though gradually, and not as suddenly as one has tried to make it out today—in the Third Reich. The so-called leadership principle, as it developed in constitutional law, placed the whole power of the state in the hands of the Fuehrer and Reich Chancellor. After Hindenburg's death all the power was wielded by Hitler. This has also been established in the judgment of the International Military Tribunal. There was no question any more of the division of power into three. The Fuehrer and Reich Chancellor personified the Reich government and the Chief of State, and had become the superior of the Reich Ministers. This was the practice and the prevailing doctrine.* With the question of the so-called resistance I shall deal in the course of the evidence. Here I think I can point out that it has already been shown in the proceedings before the International Military Tribunal in Nuernberg that, compared with the strengthening of the position of the Reich Ministry, and the Reich Finance Minister in particular, through parliament in a parliamentary and democratic form of government, the position of a Finance Minister under dictatorship was necessarily reduced to that of an administrative chief. The dictator was not concerned with any political or technical considerations, or with bureaucratic financial-political considerations, using this term in a favorable sense. What was left to the Finance Minister was the

* [Quotation of sources by Dr. Fritsch] Cf. for instance Koellreuter, German Administrative Law, 2d Edition, 1938, page 63; Hoehn, The Change in Ideas pertaining to Constitutional Law, 1934, page 39; Fischbach, German Civil Servants' Law, 1940, page 8; Frank, German Administrative Law, 1937, page 144.

way of least resistance, and, thus, the elimination of the worst mistakes. His increase in power under given circumstances within his administration was far more than equalized through the reduction of his position with respect to the state leadership. These facts have already been explained by Professor Dr. Kaufmann who testified as an expert and whose testimony formed an effective supplement to the statements of the prosecution witness Professor Dr. Peters, which at first it seemed perhaps to a certain degree to contradict. The thesis of the defense, which has already been proven in part and will be supplemented in part by the examination of the defendant on the witness stand, may therefore be formulated thus: The position of the Reich Minister of Finance during the Hitler period was reduced from a man who was—if I may be allowed to say so—a capitalistically strong and thus influential man, to that of a man of routine and a technical functionary. This was not a result of his own volition or his own initiative but of an enforced development, which in its beginning was undoubtedly based upon the will of the people, and could not be changed later on, after the might of the National-Socialist leadership had increased. The fact that strong forces abroad also influenced and strengthened this development is known to the Tribunal from its own knowledge of the matter.

When the prosecution in individual cases alleges that the Reich Minister accepted funds which had been unlawfully confiscated by other agencies of the Reich, I shall, in opposition to this, be able to prove that this contention is based on a complete misapprehension of the structure and handling of the finances of the Reich. I shall, in this connection, have to discuss in particular the nature and position of the Reich Main Treasury [Reichshauptkasse], and I shall prove that this Reich Main Treasury, which is wrongly regarded as a treasury office of the Reich Minister of Finance, was in fact the treasury office of all Reich authorities. Every high authority, without having to depend on the Reich Finance Minister's consent, could pay funds received into this Reich Main Treasury. How far this independence from the Reich Minister of Finance went in this respect is illuminated by the fact that the Reich Minister of Finance was not entitled or bound to examine the justification, or non-justification, of payments, but that an independent supreme Reich agency, namely the Reich Auditing Court [Rechnungshof], had been set up for such examinations. That the prosecution is under the same misapprehension concerning the real facts is shown with regard to the charges that funds were provided by the Reich Ministry of Finance. It is too simple to compare the Reich Minister of Finance and the chief of any other Reich agency with two men,

one of whom provides the plan for the robbery and the other one the money for the procuring of the gun. The defense does not see any possibility of following the prosecution on this level of argumentation. On the other hand, I myself have no cause to deny that the secrets of the budget have not been revealed fully to me either. I am of the firm conviction that they could only be explained satisfactorily, if at all, by a man who handled these matters for many decades. There is no doubt that Count Schwerin von Krosigk alone could do that. Therefore, I shall bring up this problem for detailed discussion during the examination of the defendant, and I hope that I shall be able to give to the Tribunal a clear picture of events.

The defense believes it knows one of the prosecution's objections concerning the argumentation of the defense—Why did Count Schwerin von Krosigk, who, according to his origin, his education and his upbringing, undoubtedly did not belong to the men of the National-Socialist regime, not resign from his position at least after a certain date, but remained in a responsible leading position in the Reich Ministry of Finance? I might reply that this fact in itself does not support any individual guilt such as has to be proved before this Tribunal. I think, however, that by this reply, the problem is not completely solved, because this question is of great importance for the entire attitude and therefore the characterization of Count Schwerin von Krosigk. Count Schwerin von Krosigk himself, Your Honors, will tell you about the great alarm with which he watched the development of affairs in Germany after a certain date. On this occasion the problem of the German official will have to be discussed, in my opinion. For you, Your Honors, who, through the development of your country, must apply a different standard to the class of public servants from that which we apply over here in conformity with our old traditions, it will not be very easy to reach the core of the problem. The German official is brought up as a servant of the State. He is not a politician. For him his career as an official is the task of his life, to which he devotes himself until his death. I do not exaggerate if I point out here that you will hear, not only in Germany but also abroad, from men who are experienced in these matters, the name of Count Schwerin von Krosigk mentioned amongst other names, but not in the last place as typical of such good German officials. He joined the Reich Ministry of Finance as "Assessor," that is, as a young administration jurist. He became Government Counsellor, then Ministerial Counsellor and climbed up the scale in his sphere until he became Minister, regardless of the parties which represented the government, regardless of better financial possibilities

which offered themselves to him in other positions. Only on the basis of this, his fundamental attitude, can it be understood that Count Schwerin von Krosigk, to whom, owing to his personal modesty and unpretentiousness, the position of a minister was repugnant, was prevailed upon by Hindenburg, his highest superior, to accept the position of Reich Minister of Finance under von Papen, and to remain in his position under von Schleicher and Hitler. Only in this way can the attitude of the former German Reich Chancellor, Dr. Heinrich Bruening, be understood, who, in a statement submitted by me in document book 1, on page 4 says, and I quote:

"I have advised Mr. von Krosigk to continue to lead the Finance Ministry in Hitler's cabinet."

Here we see that even an irreproachable man like Dr. Bruening, according to the above-mentioned basic attitude of the German official, considers the form of government as something transitory, and states that service to the people, and thereby staying on in one's post, is primary and essential. It is one of the most important characteristics of German officials that they can be dismissed, but would never quit service themselves. Thus, Count Schwerin von Krosigk moved up in the scale of his professional activity into a sphere which actually should be reserved to the politician. He, however, did not become a politician, but because of his attitude, this ministry, in which perhaps also at that time certain political possibilities lay dormant, became a purely specialized ministry run by functionaries.

In my presentation of evidence I will have to refute another mistake made by the prosecution, and that because of the fact that, in my opinion, the problem now under consideration is of importance for the question of actual knowledge. The prosecution constantly implies that the later attitude of the National-Socialist regime could and should have been recognized already in the beginning. I have already pointed out that these matters developed slowly, and even the International Military Tribunal has stated that the leaders in Germany very skillfully adjusted their further steps to given possibilities and favorable occasions. Nobody in Germany, with the exception of maybe a few of Hitler's close political friends, could anticipate a development of the kind that presented itself actually at the end. Otherwise, the attitude of foreign countries, and especially of those people who supported Hitler with millions, as for instance, Vickers-Armstrong, would not be understandable, if one should not consider their intentions as bad. That a minister did not necessarily belong to the circle of those informed and trusted, and that

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particularly the Reich Finance Minister, Count Schwerin von Krosigk, could not be considered part of such a narrow circle, I can and I will prove beyond any doubt through the cross-examination of the defendant himself, and the examination of witnesses, as well as through the presentation of documents and other evidence. As far as counts four and five of the indictment are concerned, I do not want to go into details in this opening statement. I will illustrate the actual conditions through witnesses and through other evidence and will leave it to the Court to draw the necessary conclusions in consideration of my final argument. The basic principle of *tu quoque* is not recognized by these courts, and Count Schwerin von Krosigk does not intend to refer to it in legal respects. However, actually it should be of importance insofar as one is compelled to make comparisons with the actions by the victorious powers who sit in court here, actions which, if they are on the same level as charged here, should either also be called criminal and prosecuted, or which should exclude the possibility of a verdict of guilty in this case. Instead of giving many details, I only mention here the so-called dismantling policy of the Allied Powers here in Germany. Starting from the basic principle of the destruction of war industry, other considerations have obviously replaced this, as shown by the dismantling of paper-bag factories, cocoa-product plants, etc. I leave the discussion of such facts to the argumentation in my final plea, for which the High Tribunal will no doubt furnish me with the necessary time, in view of the material presented by the prosecution.

The assertion by the prosecution that Count Schwerin von Krosigk as Reich Minister for Finance participated in one way or another in aggressive wars, and in conspiracy to commit war crimes and crimes against humanity, is not conclusive. The prosecution tries to prove his alleged criminal acts by his knowledge of rearmament. The defense will in this case refer particularly to two documents which contain statements by the former State Secretary Dr. Schaeffer, who has been living in Sweden since 1932. In addition to a thorough characterization of Count Schwerin von Krosigk, he gives a particularly clear review of the actual developments, including that of armaments before 1933. In addition to his statements, I have already shown the type of participation in rearmament after 1933 by the Reich Minister for Finance through the examination of Ministerialdirektor Mayer before Commissioner Judge Crawford, and I will supplement this description by the statement of the defendant himself as witness. I am very disappointed that I cannot present those two gentlemen in person as witnesses to the High Tribunal,

because both are first-class experts. Both know Count Schwerin von Krosigk very well. Both are above all suspicion of giving a judgment *pro reo,* one being a Jew and a democrat, the other a nonpolitical old civil servant who now again is employed in a responsible position. The statements of these witnesses would have been even more important for me, because, under the circumstances prevailing, I am not in the position to present documents which would furnish unequivocal evidence, namely the letters of Count Schwerin von Krosigk and his diary, and therefore I am compelled to build up my defense on the testimony of witnesses. The hearing before the commissioner ordered by the Court is only a very weak substitute for the direct impression which the Court would have received from the witnesses proposed by me; all the more so as the numerous translation mistakes which I have noted must render a clear understanding of the statements before the Commissioner exceedingly difficult, even insofar as they may have been corrected in the meantime.*

In refuting count one of the indictment, I start from the understood basis also laid down in the IMT judgment, that rearmament in itself is not regarded as a criminal act according to the provisions of the law applicable here. Of importance is only the knowledge of the defendant that a war of aggression was intended. Also in this respect the IMT judgment shows the basis and the course to be followed in order to prove this knowledge of a defendant. The defendant did not take part in any of the discussions with Hitler referred to in the IMT judgment. The fact that no cabinet meetings were held after 1938 is also known to the Court. Apart from this, I have already furnished proof, through the examination of the former State Secretary Fritz Reinhardt before Commissioner Judge Crawford in the afternoon of 7 September 1948, that Hitler—on representations being made concerning the amount of the expenditures of the Wehrmacht which were altogether incompatible with the available funds of the Reich—had told Count Schwerin von Krosigk through his State Secretary Reinhardt, that in 1939 the Wehrmacht would again be subject to the provisions laid down in the budget. If the prosecution contends that knowledge of the intended war of aggression may be inferred simply from knowledge of the amount of the rearmament expenditures, they completely disregard the fact that these amounts can in no way be compared with, for instance, the funds expended now by other states, although Germany at that time had to start from scratch and procure every-

* Counsel for both prosecution and defense were at liberty to make motions to correct alleged errors in translation. Ordinarily such matters were handled, after informal discussions outside court by the opposing parties, by submitting a stipulation or an unopposed motion to the Tribunal.

thing, from a shoestring to a gun, and that the entire personnel costs are included in the amounts spent. Apart from this I believe, Your Honors, that I may refer to trustworthy witnesses of your own nation as to the inaccuracy of the contention of the prosecution. Burton Klein, commissioned by Harvard to study the German war economy, goes himself at length into the question of German rearmament. Klein says that the supposition was prevalent in America that Germany had built up a large war machinery. He says literally, and I quote from the American Economic Review, March edition 1948:

> "Even a superficial examination of the official German figures which are now available shows that the correctness of this supposition is doubtful."

Furthermore, Klein shows that, in the last years preceding the war, Germany had maintained a very high level of civilian production. For instance, 336,000 new dwellings were built in 1937, and there was a record production of civilian autos in 1938 which was twice as high as in 1929. He proves in each case that from 1933 to 1938, 50 percent of the public and private investments concerned dwellings and non-war capital goods. I am in a position to have these statements supplemented by various witnesses during the hearing of evidence. I should like to add two more quotations of Mr. Klein whom I consider to be a most trustworthy witness for you, Your Honors. I quote:

> "The explanation for Germany's failure to prepare for war to a much greater extent is in the main financial."

Klein states, in regard to Hitler's boast that the National-Socialist government had spent 90 billion reichsmarks for armaments, that this statement of Hitler's was untrue. He continues, and I quote:

> "We would like to say in this connection that it rather pleased Hitler to see Americans and other anti-Fascists exaggerate his war preparations, the same as Stalin is pleased to see Americans and other anti-Communists overrate his potential."

It has already been clearly stated that rearmament in itself does not constitute a criminal act. Apart from this I shall prove, as I have already briefly touched upon, that knowledge of this rearmament does not admit of any inference in regard to designs for a war of aggression. Even by starting from inflated figures —and the American Colonel Texley also does this in the magazine which I have mentioned—one inevitably arrives at the same

conclusion as the above-mentioned Colonel Texley. I quote: "The actual attainments in the production of armaments until September 1939 are not very impressive." And he continues, "During World War II there never existed a national economic plan in Germany."

In all these reflections which naturally afford only a brief survey of the course of the intended examination, we are reminded again and again that in the main it will be a question of the organizational and administrative position of the Reich Finance Minister that has to be considered. For this reason I have also prepared an expert opinion for the Court, which is an objective investigation of the development and the actual possibilities of the Reich Finance Ministry in regard to its activities within the limits of existing laws. It is this, a treatise in the form of an affidavit by Dr. Walter Eckhard, which I intend to submit as Document Krosigk 300, Krosigk Exhibit 159.

During the examination of the defendant I shall also review the part he played at the collapse of Germany. His statements in the affidavits which I have submitted show that as Reich Finance Minister, Minister of Foreign Affairs, and the leading Minister under Doenitz, or as a prisoner, he remained true to the motto which governed his life: "Duty and Conscience". He never intentionally swerved from it.

S. Opening Statement for Defendant Puhl[1]

DR. GAWLIK (counsel for defendant Puhl): Your Honors, Mr. President.

> "It is the duty of all concerned to see that the trial in no way departs from those principles and traditions which alone give justice its authority."

These are the words of the Chief Counsel for the Prosecution of the United States, Justice Jackson, in the session of 20 November 1945 at the beginning of the trial before the International Military Tribunal.[2]

The principles and traditions of jurisprudence, which are a guarantee for the search of truth and a just decision must be particularly observed in the taking of the evidence.

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[1] Delivered on 14 May 1948, (*tr. pp. 5433–5443*). The final statement of defendant Puhl appears in section XIV, volume XIV, this series.

[2] Actually the words quoted are taken from the initial statement of the President of the International Military Tribunal, Lord Justice Lawrence, Great Britain, at the first session of the Tribunal on 20 November 1945, just before the indictment was read in open court. The full sentence reads as follows: "The four Signatories having invoked the judicial process, it is the duty of all concerned to see that the Trial in no way departs from those principles and traditions which alone give justice its authority and the place it ought to occupy in the affairs of all civilized states." See Trial of the Major War Criminals, op. cit., volume II, page 30.

Of the evidence that has been produced against the defendant Puhl it can, however, not be said that it is in keeping with these principles.

The defendant Puhl belongs to the few defendants against whom the prosecution has called no witnesses. The evidence of the prosecution was limited to the production of 31 documents. This is an infinitesimally small fraction of the 3,442 exhibits which the prosecution has submitted in this trial in the course of its case-in-chief.

It might have been assumed that these few documents which have been submitted against the defendant Puhl are in keeping with the principles of the taking of evidence which are in force in all civilized countries. This is, however, not the case by any means.

The following principles for the taking of evidence have been violated in particular:

1. The prosecution has submitted in evidence a number of letters. According to the principles which are applicable, particularly in the American trial procedure, a letter alone has no probative value *per se*, and is therefore inadmissible as evidence. It does not suffice that it be proven that the letter has been found in possession of the defendant. It must be proven, rather, that the defendant has written the letter, received it, or has gained knowledge of its contents in any other way. I refer, in this connection, to the statements of Wharton in his book "Evidence in Criminal Cases," volume II, 1935, paragraph 807, page 1394.

The prosecution has not adduced this proof with respect to a number of letters submitted against the defendant Puhl, namely, with respect to the following exhibits: Prosecution Exhibits 1903, 1905, 1907, 1908, 1912, 1913, 1914, 1915, 1923, 1927, and 1928, which are Prosecution Documents NID–14446, NID–14457, 4024–PS,[1] NO–724,[2] 3498–PS, 3949–PS, 3947–PS,[3] NID–13818, NID–13263, NO–1022, and NID–14646 respectively.

2. Among the further principles of the taking of evidence belongs the exclusion of hearsay evidence. The exclusion of hearsay evidence is based on the idea that through such evidence statements are introduced into the case-in-chief which originate from unknown people and whose correctness, therefore, cannot be probed. The affidavits submitted by the prosecution largely contain statements founded on hearsay.

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[1] Prosecution Document 4024–PS, is reproduced in Trial of Major War Criminals, op cit., volume XXXIV, pages 82–92.

[2] Prosecution Document NO–724 is reproduced in section IX, volume XIII, this series.

[3] Prosecution Documents 3948–PS, 3949–PS and 3947–PS are reproduced in Trial of Major War Criminals, op cit., volume XXXIII, pages 577–583.

These are not, by any means, principles of the taking of evidence which have been arbitrarily established. These principles, on the contrary, have taken shape in the course of the development of law spread over centuries, and are based on the laws of logic. They are principles whose binding force is generally recognized. They belong to the principles whose observance is necessary for they are the guarantee that the truth be found and with it a just decision be reached. The most scrupulous observance of the evidentiary rules established by jurisprudence and judicature is, moreover, necessary for another reason. The trials before these Tribunals are to serve the development of international law. New international law, the international law of the future, is to be created here. This objective can only be reached if the greatest emphasis is laid on the search for truth.

This is an idea which, for instance, the great jurist of the United States, Francis Wharton, has vented in his already mentioned book, and I refer to his book, "Criminal Cases," volume I, 1935, paragraph 3, pages 4 and 5.

The provision of Article VII of Ordinance No. 7 does not rule out at all the application of these evidentiary principles. According to this provision, Military Tribunal IV is not bound to any evidentiary rules. This provision, however, only provides for the admission of evidence. It by no means relieves the Military Tribunal of the obligation when examining the probative value to take account of the principles of evidence cited by me.

This procedural defect alone makes the evidence of the prosecution insufficient to sustain the charges of the indictment against Puhl.

Apart from this, the prosecution, when producing its evidence, has not observed the rules established by this Tribunal.

Military Tribunal IV has expressly ruled that the prosecution must state, with respect to every document submitted by it, where the document comes from and where it was found. During the course of the production of evidence against Puhl this rule has been expressly referred to. When the evidence of the prosecution against Puhl was produced, I pointed out these defects. The prosecution has been ordered to correct this. It has, however, obeyed this order only in part, and so late that it has not been possible for me to procure the evidence made necessary through this information of the prosecution.

For Exhibits 1907, 1921, 1922, 1924, 1925, 1926, 1927, 1928, and 1929 which are Prosecution Documents 4024–PS, NID–14583, NID–14461, NID–14638, NID–14460, NID–14647, NO–1022, NID–14646, and NID–13264 respectively, the prosecution has not furnished these particulars to this day.

It is on such incomplete and defective evidence that the charges against Puhl are based. Nor must the fact be left unmentioned that the prosecution has had 2 years' time at its disposal to procure this material. The defendant Puhl was interrogated about the happenings which formed the substance of the charges more than 2 years ago. In spite of all the time it had for preparation, the prosecution was not in the position to present evidence that conformed with the recognized rules of evidence. I believe that the prosecution itself is convinced that the evidence introduced by it is not sufficient to convict the defendant Puhl.

For this reason it has shown a film (*USA–845 IMT, Pros. Ex. 1919*) as evidence. Through this film, proof is to be adduced, in particular, that the Reich Bank accepted objects whose origin might have raised misgivings.

It is a controversial question in jurisprudence whether a film has any probative value at all, and is therefore admissible in evidence. This issue has, in particular, been hotly debated in the judicature of the United States. The Courts of Appeal of the United States have had, so far, to deal with the admissibility of films in a few cases only. In most of these cases courts have refused to admit them.

I refer particularly to Wharton, volume II, paragraph 778, page 1335.

The incomplete probative value of films has also been pointed out by legal theorists. I shall set forth the objections as to the probative value of films which have already been pointed out by court findings, and in legal writings, in my evidence against the film shown by the prosecution.

The film shown by the prosecution was already introduced in evidence before the International Military Tribunal. Before the International Military Tribunal, the then counsel for the prosecution, Mr. Dodd, stated expressly that the objects which are visible in the film had been found in the vaults of the Reich Bank in Frankfurt at the surrender. The American prosecutor, Mr. Dodd, based his application to show the film to the IMT on the contention that he would show a film "which was taken of some materials in your vaults when the Allied Forces arrived there." He meant Funk when he said "your."[1]

He then stated, in addition: "* * * but, for the information of the Tribunal, it was taken in Frankfurt when the Allied Forces captured that city and went into the Reich Bank vaults."[2] A similar statement was made by the prosecutor during these proceedings.

[1] Trial of the Major War Criminals, op. cit., volume XIII, page 169.
[2] Id.

Counsel for the prosecution stated, when this film was shown on 20 March 1948:

"I would like to introduce, after I have completed this book, a film which was Exhibit 845 before the International Military Tribunal, showing property in the vaults of the Reich Bank building in Frankfurt." (*Tr. p. 3755*)

"You will see the very material that has been described in these documents, as received by the Reich Bank." (*Tr. p. 3756*)

The Tribunal overruled my objection against the film, stating:

"The valuables were there. The affidavit says they were found in the vaults of the Reich Bank in Frankfurt. It is, of course, possible that someone else could have the bank put them there, but I think, as a *prima facie* matter, that those things which were found in the bank, within this short time after the close of the war, may be presumed in the first instance to have been there at the time of the surrender. It may not be, and you can offer testimony that they were not there at the time." (*Tr. p. 3761*)

I shall adduce this proof. I shall prove that the statements which were made when the film was shown before the IMT, and which were made by the prosecution when the film was shown in this trial, are incorrect.

I shall prove, in particular, that the objects which are visible in the film were not in the safes of the Reich Bank until the surrender. The Reich Bank building in Frankfurt-on-the-Main, where the film was shot, was evacuated at the surrender and occupied by American offices, which are in it to a great extent to this day. Until that date the objects which are visible in the film were not in the safes of the Reich Bank in Frankfurt. They were, on the contrary, transported into the safes of the Frankfurt Reich Bank by American units after the surrender, that is to say, at a time when the building was occupied by American authorities. After the objects which are visible in the film had been transported into the safes of the Frankfurt Reich Bank by American authorities, this film was shot in the vaults of the Frankfurt Reich Bank. The officials of the former Reich Bank, who were employed at the Frankfurt Reich Bank until the surrender, will testify to this.

Another exhibit that the prosecution has submitted is an affidavit which the defendant Puhl made on 3 May 1946 (*3944–PS, Pros. Ex. 1911*), while he was interned at the Altschweier camp. In order to establish the probative value of this affidavit, the circumstances under which the affidavit was made will have to be considered. I shall prove, in this connection, that the de-

fendant Puhl, when this affidavit was submitted to him for signature, was in bed, gravely ill. This will be confirmed by the doctor who treated the defendant Puhl at that time.

As for the relevance of this evidence, I especially refer to the declarations of Wharton, "Evidence in Criminal Cases," volume II, paragraph 631, page 1056, where it is explained in detail that any statements of a defendant which he made while ill have no probative value, and that such statements are not admissible at all as evidence.

Even if the defects of the prosecution's evidence described by me are taken into consideration, the following has been established through the documents submitted by the prosecution after it had concluded its case-in-chief.

The charges against Puhl made by the prosecution in its opening statement are not true.

The prosecution has asserted in its opening statement:

1. That the defendant Puhl had supervised the valuables delivered by the SS. In another context it is stated that it was Puhl's duty to receive the booty from Pohl, including the gold teeth; to take it into safekeeping, to account for it; to safeguard it; to sell part of it, and to book the proceeds. The judgment in the case against Pohl, et al., which has been submitted by the prosecution itself, shows that the SS did not deliver any gold teeth, as these had been melted down before. I refer to an excerpt from the opinion and judgment of the Tribunal in Case 4, the United States against Oswald Pohl, et al.

The SS, thus, merely delivered gold bars which did not show any traces of their origin.

The prosecution's case-in-chief, furthermore shows that the activities described by the prosecution did not come within Puhl's sphere of work. These activities were not carried out by the defendant Puhl, but by the officials of the Reich Bank's Main Cashier's Department [Hauptkasse].

2. That the defendant Puhl had financed the enterprises operated by the SS, and for this purpose had utilized the Reich Bank, of which he was vice president.

The documents introduced by the prosecution itself show the contrary, to wit, that the Reich Bank did not grant these credits but refused them.

3. The prosecution has asserted that Pohl had approached the defendant Puhl and had asked for this financial support of the Reich Bank.

The documents introduced by the prosecution itself, however, show that the credit was granted by Funk to Himmler.

With regard to paragraphs 49 and 71 of the indictment, the only

two paragraphs under which Puhl is charged, I shall prove the following:

With regard to paragraph 49 of the indictment

1. The SS merely delivered foreign currency, gold, and jewelry. It is, in particular, incorrect to say that gold teeth, as well as clocks, alarm clocks, and spectacle frames had been surrendered.

2. The surrender of gold and foreign exchange was based on legal provisions according to which the Reich Bank was under obligation to receive these assets without having the right to probe into their origin. This shows that the defendant Puhl could not have prevented the acceptance of gold and foreign currency.

3. Above and beyond that, the acceptance of gold and foreign currency was expressly ordered by Funk. This is already shown by the documents submitted by the prosecution, and especially by the IMT judgment.*

For this reason, again, the defendant Puhl could not have prevented the surrender.

4. The competent office for the acceptance of these gold and foreign currency assets was the Cashier's Department [Kasse]. The Cashier's Department, however, did not belong to the jurisdiction of the defendant Puhl. For this reason, again, the defendant Puhl cannot be held responsible for the acceptance of these assets.

5. The defendant Puhl had no knowledge of the type of the objects surrendered. Nor did he know, beyond this, the origin of these things.

With regard to paragraph 71 of the indictment

1. The two credits of eight million Reichsmarks each to the Deutsche Erd- und Steinwerke G.m.b.H., were neither granted by the Reich Bank nor by the Deutsche Golddiskontbank A.G., but by the Reich Ministry of Economics.

The defendant Puhl, who was never a member of the Reich Ministry of Economics, can, for this reason alone, not be held to be responsible for the granting of these credits.

2. The defendant Puhl, even if the credit had been granted by the Deutsche Golddiskontbank A.G., would not have had the power, nor the possibility, to prevent the granting of these credits. Puhl was merely a member of the Aufsichtsrat of the Deutsche Golddiskontbank A.G. and had, therefore, no part in the management, which was entirely the duty of the Vorstand.

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* Trial of the Major War Criminals, op. cit., volume I, pages 252, 305, 306.

3. The prosecution has contended that the credits were to serve the purpose of promoting the employment of concentration camp inmates. The prosecution has adduced no proof for this. In spite of this I shall prove that it was not known to the defendant Puhl that these credits were to serve this purpose. By no means did he know, moreover, that the credits were to serve the purpose of treating inhumanely war prisoners or members of the territories occupied by Germany. Such a knowledge could not have existed for the reason that the negotiation took place already before the outbreak of the war.

The prosecution in its opening statement has designated the defendants as persons who put into effect the plans and the so-called ideology of the Third Reich (*Tr. p. 18*).

This contention does not apply in any way to the defendant Puhl. Not the slightest grounds for this contention of the prosecution have been found in the incomplete evidence submitted by the prosecution.

The prosecution has contended, furthermore, that Puhl had been a servant of the SS and the NSDAP (*Tr. p. 91*). The prosecution has failed to prove this as well.

In contradistinction to these contentions made by the prosecution, I shall give, in my case-in-chief, a true picture of the personality of the defendant Puhl; I shall show him as a man who, in international banking circles, enjoyed the reputation not only for a prominent expert, but also that of a man whose actions were only guided by the principles of right and justice, of a man whom, for instance, François Poncet, the former French Ambassador in Berlin, for many years, described as a German who did not approve of any violations of law, or any of the outrages committed by the Hitler Reich.

T. Opening Statement for Defendant Rasche*

DR. KUBUSCHOK (counsel for defendant Rasche): In the proceedings against the defendant Dr. Rasche the history of the trial with regard to this defendant should be of certain interest.

During and since the war, the Allies have endeavored to establish responsibility for the unleashing and waging of this war. The root of it was seen to be the National-Socialist domination. The consequences were perceptible in all spheres of life. Investigations, therefore, beginning with the politicians, soldiers and leading state officials, also extended to the sphere of economy. The conclusion that armaments and the conduct of the war, as well as the maintenance of an extravagant administrative appa-

* Delivered on 19 August 1948 (*Tr. pp. 16995–17009*). The final statement of defendant Rasche appears in volume XIV, section XIV, this series.

ratus of State and Party, were based on the availability of the requisite funds, led to a further extension of the investigations, this time to the banks. An investigation commission was established to examine in detail the structure and the activity of German banks during the time in question. It was obviously expected to find here a source of the evil; for, when viewed superficially, it is only too easy to connect the conception of money with the sway of sinister powers. Closer investigation, however, disclosed that the former suspicion was unjustified and that the importance of the banks in the "Third Reich" had been grossly exaggerated and their activity misjudged. It was found that the banks on the whole had exercised nothing more than the natural and normal function of a mediator in economy, and had not thereby deviated from the practice of other banks all over the world. There was nothing left for the official investigation commission but to criticize a certain structural divergence between Central European banks and those of Anglo-American economic circles, namely, the participation of the banks in financing industry, which had always been customary in Central Europe. However, since this system had been practiced in European economy from time immemorial, this too could not be pronounced as being an emanation of National Socialism. The wide scope of the endeavors to establish the guilt of German banks was therefore abandoned and narrowed down to an attempt to achieve results within a smaller circle. On the basis of outward, accidental aspects, attempts were made to incriminate the Dresdner Bank which was suspected of having been in close contact with the Party.

Here again the scope was considerably restricted, for when, in the course of the criminal proceedings, it became necessary to refer to individual personalities, it soon became evident that in the case of the majority of the Vorstand members of the Dresdner Bank, men who had been in custody and screened for years, the extent of their personal connection with the Party was so negligible that for obvious reasons their indictment was out of the question. The inquiry, however, had already been in operation for two years. At least a certain modest result of this had to be indicated by the indictment of a member of the Vorstand who seemed to have had certain connections with Party offices. It is true that the person primarily considered for this role from among the multiple members of the Vorstand was no longer alive. A replacement, however, was found in the person of Dr. Rasche who in any case had been a member of the Party since 1941, and who had taken part in the meetings of the Keppler circle since 1939.

He is now arraigned before the Court as the representative, so to say, of German banking, and the defense intends to prove in its evidence that whatever Dr. Rasche did—and mostly it is in any case not a question of his personal activity, but merely of a very superficial participation in the matters under discussion—was the normal routine activity of a banker.

The indictment is based on operations in the economic sphere. This involves the following difficulties:

1. An investigation of economic facts according to the standards of penal law always confronts the Court with the problem of establishing the dividing line in economy between what is legitimate and what is prohibited under penal law. The demarcation of what is permissible or unauthorized within the scope of an activity directed towards earnings and profits, will always be more or less fluctuating. Here the search for a motive cannot, as is so often the case, lead to the basis for a judgment.

The Court is, on the whole, reduced to an investigation of outward facts, in particular of methods and means that were employed, but for the evaluation of which no universally binding principles exist. If, therefore, the evaluation of an economic operation is based on an uncertain and fluctuating foundation, this must lead to an additional difficulty in ascertaining whether, and in how far, the perpetrator recognized the criminality of his action.

2. This difficulty assumes even greater dimensions in a trial bearing on political economy. For, just as a representative of the State is readily identified with the plans and aims of the State, so the actions of a private economist must be recognized as having been carried out as part of his functions within private economy, and therefore being directed towards unpolitical business objectives. This reflection is of special importance when the prosecution as legal proof of a crime against humanity—as far as this concerns lawful property rights—is obliged to furnish proof of systematic action and of a political direction of aims.

3. The problem becomes even more involved as a result of the fact that the Court has to base its verdict on international law. International controversial questions thus arise as to the nature of interference within the sphere of personal property justified or prohibited by international law. So far as this is concerned, the international code—to be applied, moreover, only to a fraction of the cases in question—merely contains general formulations. Their application demands a profound knowledge of individual economic measures and their consequences.

4. Economic happenings are as a rule composed of various separate acts. In an investigation from the angle of penal law

it must be ascertained which of these actions are relevant under penal law, that is to say, which were instrumental in producing the punishable result.

In view of the abstract nature of financial transactions in connection with a bank, it will as a rule have to be assumed that they have no direct connection with the punishable result. At any rate, in order to establish criminal responsibility, proof must be furnished that the perpetrator desired the punishable result and brought it about by his very action.

I should now like to direct the attention of the Tribunal to some peculiarities which pertain to banking affairs. It is characteristic of this business, which is in the nature of a typical auxiliary industry, that it cannot claim an independent position but must be content to serve as a connecting link in the economic organism. German banking in the Third Reich can therefore be understood and judged only if consideration is given to the general political and economic conditions of the time. It is in the nature of the totalitarian system of the Nazi regime, which in the economic sphere was characterized by a vague combination of state socialism and private enterprise, that in numerous cases it merely seems as if the banks had identified themselves with the plans and aims pursued by the government. In the large majority of these cases, closer investigation proves that this procedure of the banks was one of the necessary consequences of the system, a procedure which they frequently did not desire, but which they were unable to avoid. In view of the omnipotence of State and Party, and the official direction of economy, there was even less opportunity than ever for the banks to assume a leading position and take initiatory steps. Direction was vested solely in the State, and emphasis in the economic sphere was placed on production, not on the banks. For it was the production of goods which was of decisive importance in the economic policy of the Third Reich, and the money which was manipulated by the State in accordance with the requirements of productive economy was of only minor importance. Every bank and each member of a bank directorate had to accept that. The possibility of finding an outlet for personal views and personal interests, or of representing either was very limited.

Further restrictions of the independence of the banks are due to the general structure of this trade. A bank, as a rule, does not effect transactions on its own initiative and for its own account, but on orders from, and in the interests of its customers. As soon and as long as a bank is open for business it cannot, on principle, avoid attending to the desire and orders expressed by its customers. Since the latter were to a considerable extent

themselves subject to the directives of the State, the result was an increased influence by the State and inevitable inclusion in general political and economic measures. It is thus incompatible with a normal sense of justice that a person should be made responsible, and in most cases that person alone, who had only a slight connection with the events and who was merely affected by those tendencies.

Dr. Rasche was not the proprietor of a bank nor was he the director of one; he was merely one of several members of the Vorstand of a principal bank. The Dresdner Bank with approximately 340 branches and 12 affiliated concerns, with a host of employees and a balance of finally approximately 8 billion reichsmarks, had also at the head of its administration carried into effect the principle of division of labor to a far-reaching extent. A detailed division of competency within the Vorstand had become a necessity. In the course of the defendant Dr. Rasche's examination, the defense will therefore begin by giving a short account of the business assignments at the Berlin central administration from which arises a limitation of the defendant's penal responsibility.

The prosecution has simplified its task too much. It has merely described the economic transactions made by, or for, a customer of the bank, which it considers reprehensible, and is satisfied with making the statement that the Dresdner Bank participated in one or another phase of these transactions. If this argumentation by the prosecution is in itself inadequate, since every action in connection with a questionable transaction is not in itself an offense, the prosecution has in most cases omitted to establish the manner in which responsibility results for the department directed by Dr. Rasche, and where—in the case of his participation—Dr. Rasche's personal criminal responsibility has been proved.

In this connection the problem arises as to how far the mere knowledge of events or parts thereof, justifies assumption of relevant participation from the angle of penal law. In all cases where the prosecution believes it has proved that the defendant, at some stage or other, received information of certain events, conclusive evidence must be furnished that his conduct was responsible for the results.

The defense regrets having to take up the time of the Court with a discussion of technical details in banking. This is frequently unavoidable since the prosecution has in many cases simplified facts to such an extent that it might lead to a misrepresentation of facts and to erroneous conclusions. The impression arises that business occurrences which appear entirely

conventional and harmless to any expert, are governed by political or criminal tendencies with which in fact they have no connection whatever, and a knowledge of facts is inferred which in reality never existed.

The defendant Rasche is accused of transactions in various territories partly incorporated, partly occupied. The defense will follow the example set by the prosecution and deal with this count according to separate countries. In this connection various legal problems arising in any of these countries will be given special attention. Since the treatment of evidence is also dependent on this legal evaluation it may become necessary to discuss relevant legal points though, on the whole, this will be reserved for the final plea.

I shall first deal with the charges made by the prosecution in connection with Austria.

In their previous decisions, which establish a precedent, the tribunals here have refused to exercise jurisdiction over acts affecting this area since as far as this is concerned they deny the existence of an offense in international law and because of the legal affinity of a crime against humanity with a violation of international law they do not consider it possible to institute proceedings on the basis of a crime against humanity. But since this Tribunal has not yet passed a final resolution strict adherence to the obligations of the defense does not permit this accusation to be disregarded. The few cases mentioned by the prosecution in connection with Austria will not in themselves establish criminal facts; it will also be seen that with regard to this territory and the cases in question the defendant Rasche was neither competent nor in any way involved.

Nor can I, for the same reasons, avoid reference to the evidence in connection with the Sudetenland and the Protectorate of Bohemia and Moravia, though here too the legal arguments contained in my motion of 4 August 1948 lead me to question the competency of this Court in judging cases arising in connection with these territories.

The political incorporation of the Sudetenland into the German Reich and the founding of the Protectorate of Bohemia and Moravia, of necessity involved certain repercussions in the sphere of economy as well. The prosecution assumes that it has furnished evidence, in connection with transactions concluded between Czechs and Germans, that pressure was applied, by deciding that in each individual case the Czech partner in an agreement was influenced in his decision by the oppressive political conditions. The prosecution is of the opinion that a compulsory change of the entire political situation must also

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mean that every economic decision, which would not have been made without this change, must also have resulted from compulsion. In judging the voluntary quality of these transactions, however, we cannot be guided by the criterion of whether these transactions would have been concluded in the absence of these modified conditions or not. The prosecution here overlooks the fact that the voluntary conclusion of economic agreements is not dependent on the approval of general political changes but merely answers the question whether the conclusion of an agreement served a useful purpose and was therefore desired in view of the economic situation then newly created. Political changes invariably alter the whole economic situation. This alone determines what is necessary and expedient for the economist concerned with that particular field. The economic conditions brought the German and Czech contracting parties together. Either of the two parties would safeguard his economic advantage according to the ever valid rule of free enterprise. To object to such a procedure would be to eliminate for the Czech partner the possibility of safeguarding his interests according to his own economic considerations. However, either unconsciously or to serve a certain purpose, the Czech contract partner will now in retrospect regard the political conditions which he felt to be a restriction of his liberty as being the primary state, and transpose this sentiment to the economic decisions which he had made for entirely different considerations at the time. However, this must be ignored in judging whether that contract in question was the outcome of a free decision on the part of the contracting parties.

The acquisition of banks and branches in the Sudeten area and the Protectorate will throw a particularly strong light on these aspects. These reflections, however, will also serve as a key in judging those transactions which led to the acquisition of commercial and industrial enterprises. If the prosecution has been unable to prove that individual coercion was applied in any of the cases at issue, the defense, on their part, will produce additional counter-evidence to prove that the other party's decisions were decided by his own economic interests, and that the contracts were concluded and enacted in the ordinary way of business and on payment of an appropriate equivalent in money. In this connection the prosecution laid particular stress on those deals which Rasche transacted in connection with the defendant Kehrl. It will be proved that this again concerns only an order given to Rasche, in his capacity as a banker, to be transacted through the bank, and that Rasche actually concerned himself only with matters within these limits.

In the case of Vitkovice, attention will have to be focused on the fact that the negotiations with the contracting partners residing abroad were conducted abroad, and that the contract was never enacted due to the outbreak of war.

The fundamental viewpoints in judging the so-called Aryanization transactions will be dealt with under the charge concerning the territory of the former Czechoslovakia. The defense will emphasize particularly the representation of the legal situation prevailing at the time, because this was at the same time decisive for the economic factors leading to these transactions. Hereby, the changes which occurred as time progressed will become visible. It will be proved that it was first of all its own Jewish clientele which approached the bank with the desire to sell, in order to effect the realization of their capital which was invested in the enterprise as this was desirable in view of the times and their own plans for the future. We shall then see in further developments that the law forbidding the continuation of Jewish ownership of these enterprises brought large numbers of them on the market in order to avoid liquidation, and that the banks could not refuse their usual intermediary services to such of their clients as were interested in acquiring such enterprises. In all charges concerning the territory of the former Czechoslovakia, the question will have to be examined, in each individual case, whether Rasche participated at all, and whether he had any responsibility or competence in that particular field.

When dealing with the charges concerning Belgium and Holland, we shall have to discuss the so-called interlacing transactions. It will be shown in this connection that the plans for interlacing were made without the participation of the banks, and that the latter were not involved in these deals until the foreign exchange regulations relaxed, making participation of German capital in Belgium and Holland possible again, and thus enabling the banks to resume their role of economic intermediary in that respect.

In comparison with the numerous wishes of clients of the bank, the result will prove to be very slight, for we shall show that a number of interlacing deals concluded in Holland, insignificant as far as the property involved was concerned, was about 12 while no such deals were concluded in Belgium at all. We shall see that it was made a principle, even at the planning stage, that interlacings were to be enacted only on a voluntary basis and within the limits of private enterprise initiative. The negligible number of transactions actually concluded will clearly prove that these principles were really applied in practice. This refutes the prosecution's statement that these interlacing transactions con-

stituted a systematic compulsory expropriation for the purpose of a large-scale economic Germanization of the Western economic sphere.

In discussing the Aryanization cases in Holland, the fundamental statements and viewpoints already established on this subject will be applied. Concerning the sales of former Jewish securities which were effected by the bank of Lippmann and Rosenthal, it will be proved that, at that stage of the official Aryanization measures, the participation of the subsidiaries in these sales, in the form of banking services, could no longer be interpreted as a violation of Jewish proprietary rights.

A survey of the organization of the Dresdner Bank and the subsidiaries which it maintained in Holland and Belgium, as well as of the nature and extent of the individual deals, will at any rate show that the defendant Rasche did not participate in them. In this connection the legal implications of the fact that the subsidiaries were corporate bodies, and that Rasche was not a member of their administrative agencies, will also be discussed.

The counts concerning the Eastern regions confront us with the problem of under what circumstances the granting of a loan can constitute a participation in the borrower's criminal actions.

The prosecution asserts that several corporations, to whom the Dresdner Bank had extended credits, committed crimes. The advancement of credits is regarded by the prosecution as constituting a support of the borrower, and thus a participation in the alleged crime. Here again the prosecution has simplified its task far too much. It is beyond doubt that financial aid can constitute participation in a crime if this aid is given for the purpose of committing the crime and if the execution of the crime is fundamentally dependent on this financial aid. That—as will become evident—is the flaw in all the cases dealt with by the prosecution.

Concerning the credits advanced in the Eastern territories the prosecution alleges that, by giving the credits, the Dresdner Bank supported the exploitation of the population of that territory. It seems a paradox in itself that the advance of loans, which as the prosecution states, were ultimately to benefit the population of the occupied territories should constitute participation in their exploitation. The defense will therefore show in detail that these credits were the usual kind of banking deals, justified by their purpose, and concluded with corporations against whose statutory tasks no objections whatever could be raised.

In their statement concerning the credits for the Deutsche Umsiedlungs-Treuhandgesellschaft the prosecution overlooks the fact that this corporation was not concerned with a compul-

sory resettlement of the population in the areas under discussion, but that their tasks were confined to the financial support of persons already resettled, on whose selection they exercised no influence. This eliminates the possibility of making the creditors responsible for resettlement, which is the subject of complaint.

In regard to the credits which were granted to the Landwirtschaftliche Zentralstelle [Agricultural Central Office] in Krakow, and to the Ostfaser G.m.b.H., the prosecution ignores the fact that the purpose and activity of both corporations were in the first place directed towards supplying the native population with food. From this very fact it follows that the corporation needed more money than it could provide from its own funds, for the execution of this task necessitated large-scale stockpiling and a corresponding investment of money.

In connection with all credits advanced in the Eastern territories, the question will be further discussed as to whether these credits fell within the defendant Rasche's sphere of competence in the Vorstand of the Dresdner Bank.

Regarding the Main Trustee Office East, the defense will confine itself to establishing proof that contrary to the allegation made by the prosecution, no credits were given by the Dresdner Bank.

When the various credits advanced to the SS economic enterprises are dealt with, it will be shown with particular clarity that the advance of credits does not in itself constitute support of the borrower's actions. It is the compulsory employment of concentration camp inmates and their treatment which the prosecution regards as the offense.

Apart from the fact that, according to the indictment, inmates were only employed in isolated cases there is no proof that this fact was due to the granting of the credits. The credits were placed at the disposal of companies already founded and financed by other means, to be used for their factories which produced goods of the widest variety. The prosecution has been unable to prove that these credits resulted in the employment of concentration camp inmates or influenced the treatment accorded them.

Apart from this false assumption by the prosecution, the defense will prove that the defendant Rasche neither took the initiative nor any active part in the granting of these credits; furthermore, that he had no cognizance of those matters which the prosecution submits as establishing the criminal activity of the borrowing corporations, and that in granting these credits, general banking principles were observed.

In as far as the defendant Rasche is accused of being a member

of a criminal organization, the defense will establish that he was not a member of the SS within the meaning of the findings of the IMT judgment. It will clarify such details of the evidence as may be required for this purpose. Since the prosecution attempts to strengthen this count of the indictment by citing the fact that Rasche was invited to the meetings of the Circle of Friends and that donations were made by the Dresdner Bank details will be given of the character and activity of this Circle, as well as the use to which the money donated was put. It will furthermore be proved that the donations by the Dresdner Bank were proposed by another Vorstand member and made at a time when Rasche had not yet received invitations to attend meetings of the Circle.

U. Opening Statement for Defendant Koerner*

DR. KOCH (counsel for defendant Koerner): Mr. President, Honorable Judges.

I. Case 11 is, in many respects, a repetition of the IMT trial. There, men were arraigned who had held the most prominent positions in the National Socialist State. For Case 11 the prosecution required substitutes. Goering was by far the most powerful man after Hitler. Nobody but he could so widely command all ministers of State, and all those in power in the Party. According to the prosecution, "Goering's permanent deputy," the defendant Koerner, must have been the third most important in the Third Reich. Nothing could be more erroneous. My client does not wish to appear either more or less than he was. It is a plain fact which I shall prove, that his nominal authority was uncommonly restricted and that he had no actual power—precisely *because* he lived in Goering's shadow. Neither was he ambitious enough to assume what he did not possess. The trial against him may lose in interest as soon as my client no longer appears as Goering's double, so to speak; but it will gain in veracity. It is necessary to readjust matters which the prosecution has entirely misrepresented.

II. From the legal point of view, I proceed in my defense from the basis that I have only to take into consideration international law actually in force.

I therefore decline to go into the matter of Control Council Law No. 10. In doing so I am acting in accordance with the views of this High Tribunal which definitely bases its memo-

* Delivered on 29 July 1948 (*Tr. pp. 14076-14092*). Extracts from the closing statement for the defendant Koerner are reproduced in section XIII, volume XIV, this series.

randum to the decision of 26 March 1948, concerning the cancellation of count four of the indictment, on the opinion by the IMT on the significance of Law No. 10. In conformity with the opinion of the IMT, the statutes of the law to be applied in Nuernberg do not indicate an arbitrary exercise of power on the part of the victorious nations; on the contrary, this law is merely the expression of international law as already in existence at the time of its formulation. The Honorable Tribunal itself adds that neither the London Charter nor Control Council Law No. 10 aimed at creating new criminal facts, but clearly assumed that certain actions were criminal at the time of their commission in accordance with prevailing international law. I share this opinion and therefore conclude that international law alone is valid in this case, and not an *ex post facto* law which, in reality, resembles a bill of attainder.

I also infer that this Honorable Tribunal, contrary to paragraph 10 of Law No. 7 [Article X, Ordinance No. 7], is not bound by the IMT verdict. For in my opinion this Court is a genuine court, and not a special court which, on the basis of an administrative regulation, is bound to declare a previous sentence as being applicable to the defendants in this case. Such procedure could only be possible in violation of a fundamental principle pertaining to the jurisdiction of all nations, that is, the right of every defendant to be heard in a court of justice. A legal hearing may only be considered as having been given if the court is able to base its verdict on knowledge derived from hearing the defendant and his evidence. But, to a very considerable extent, it is precisely this which has been excluded by Article X. Here again I know myself—at least as far as results are concerned—to be in agreement with the Honorable Tribunal, who in Case 5—United States *versus* Friedrich Flick, et al., [Vol. VI, this series]—pronounced that the Court would draw no conclusions from the IMT judgment which would be prejudicial to the defendants. I shall give an additional argument supporting my view in a trial brief which I shall shortly present to this Tribunal.

III. The recognition that valid international law alone may be applied, leads at once to a further conception. Whatever view was presented by international law at the time Control Council Law No. 10 was issued, it cannot be applied in the form which it had at that time, but in accordance with its content at the time the judgment was pronounced. For if international law is modified to criminal law, it must of necessity, incorporate in its penal regulations the general standards of the criminal law of all civilized peoples. This includes, among others, the ruling that in case of a modification of the rules of law between the com-

mission of a deed and the verdict, the milder rule is to be applied. Should, therefore, a prohibition by international law still in force in 1945 have now ceased to be valid, it may no longer form the basis of a verdict. This imposes the necessity upon both the Tribunal as well as the defense, of not only closely investigating the position of international law at the time of promulgation of [Control Council] Law [No.] 10 in 1945, but also of ascertaining whether international law has undergone any modification since that period. One result of this is that the principle established by the prosecution with such emphasis, namely, that all evidence dated after 1945 is irrelevant, is erroneous, however suitable it may be for the purposes of the prosecution. I may mention in this connection that a practical deduction will be drawn from this, above all in connection with the admission of documents. An example will interpret my meaning. The origins of international law are agreements or a common legal conception. Should it, therefore, be possible to prove that, contrary to 1945, the universal legal conception no longer indicates that compulsory labor is prohibited, then this prohibition of compulsory labor would no longer be a maxim of international criminal law, and could no longer form the basis of a judgment. The defendant must be permitted to prove whether this is not actually the state of affairs.

IV. 1. If only the valid international law, and not the Control Council Law No. 10 as such, is to be applied this leads to another important conclusion. Whatever objective legal regulations of Law No. 10 may be valid, no justification can be found, on the basis of a general legal conception by all civilized countries, for the extreme widening of subjective facts contained in this law. This extension of guilt to whole groups of perpetrators is in no way consistent with the principles of exact confirmation of guilt by modern jurisdiction, this being in reality might and not right, to use the language of the IMT. But here I may also say that the Nuernberg Tribunals have long ago set limitations to legal responsibility which, according to the Control Council Law, would be unbounded. From previous verdicts I shall produce evidence that a verdict of guilty presupposes evidence that—

a. The action has been performed by the defendant personally.

b. That this action was the cause of ensuing results.

c. That a criminal intention can be deduced from the defendant's action.

Intention also includes knowledge of the entire facts of the case. Errors not falling within criminal law serve as exculpation. I shall refer to this again later. At the same time I shall

deal with the legal import of acting on orders, by compulsion or in an emergency. These aspects must duly be taken into consideration in a judgment on the actions of nearly all functionaries of the National Socialist State.

2. The question, as to whether or not an individual criminal action is concerned is of special importance in the case of Koerner, and I shall therefore have to refer above all to the supposition of responsibility in my argumentation. This includes, first of all, the overrated position ascribed to my client by the prosecution, perhaps in the correct feeling that his actual functions could not justify the imputation of criminal liability. Thus the prosecution repeatedly mentions that my client was "Goering's deputy" or that he had been charged with representing Goering "in all matters connected with the Four Year Plan." I shall prove that my client could not have deputized for Goering in any of the latter's competencies, be it as Plenipotentiary for the Four Year Plan, or otherwise, and that he actually was his representative only in "routine matters," that is to say in matters that had previously been decided upon by Goering. My client's position was that of a State Secretary merely within the Prussian Ministry of State. As to the Four Year Plan on the other hand, his position was similar to, though less high than, the position of a chief of General Staff attached to a military commander. Military Tribunal V, in its verdict of 10 February 1948 against von Leeb, et al.* acquitted two defendants who were chiefs of the General Staff attached to military commanders. I shall discuss this. Taken as a whole of the defendant Koerner's activity as State Secretary in the Four Year Plan it may be said that primarily it was his task to attend to daily business, and secondly that he was charged with the coordination of the activity of the various offices responsible for the tasks of the Four Year Plan. My client, however, was not competent to deputize in any way, nor to act on his own initiative. This also applies to his activity as Deputy Chairman of the General Council of the Four Year Plan, and the Economic Staff East.

Outwardly different, though similar in fact, was the position which my client occupied in the Central Planning Board. In this respect, it is true, he did have formal authority such as would suffice for criminal responsibility. However, I shall prove that in the Central Planning Board, as was often the case in the National-Socialist State, there was a striking distinction between formal and actual authority. All the competence was delegated

* The "High Command Case," case 12, volumes X and XI, this series.

solely and exclusively to Reich Minister Speer, who had created it to fit his own purpose, and none to the Central Planning Board. The powers of the third member, Field Marshal Milch,* reached no further than this influence on Speer, whose friend he was. As the Central Planning Board was consequently not given any actual authority, my client had none either. No matter what his conduct in the Central Planning Board was, whether he spoke or kept silent, whether he agreed or objected, none of his actions or omissions, whatever their nature, was the incentive for what actually happened. Speer's decision alone was the incentive, due as much to the crushing weight of his powers as to the unlimited support which he received from the person in whom all sovereignty in the Third Reich was exclusively vested, namely Hitler. That too I shall prove.

V. Three great problems, with which the IMT has already concerned itself, namely, the criminal facts under international law of aggressive war, spoliation, and forced labor, are also the focal point in the proceedings against Koerner. I shall submit and prove that my client cannot be liable for individual occurrences, if only because personal criminal responsibility does not exist. Nevertheless, I shall make a thorough study both of the legal side and the relevant objective criminal acts. This seems to me necessary both in fairness to my client, in order to adjust the distortions of the general picture that inevitably result from the one-sided prosecution statement, and because charges as gross and general as those brought by the prosecution cannot remain unclarified from the German point of view. I shall not encumber this opening statement with a lengthy legal discussion, and shall instead present my opinion in a trial brief. May I point out that, as regards actual details, I have tried to show in the indices of my document books the aim pursued by the defense. I hope that these indices will give the Court a fairly complete outline. I shall confine myself to the main counts here.

1. Concerning the aggressive war of 1939 and its alleged preparation through the Four Year Plan—count one of the indictment—I shall prove that the Four Year Plan served peace-economy purposes as much as armament. In as far as it served armament, it did not serve the preparation of aggressive war. Should Hitler himself have had such intentions, others knew nothing about them, at any rate, not my client Koerner. In as far as the Four Year Plan served peace-economy purposes, it did so as the result of international economic circumstances in general and German economic circumstances in particular, and as an inevitable consequence of the mistakes which every country in

* The sole defendant in the Milch case, case 2, volume II, this series.

the world made since the first world war, both in domestic and international economy, each country so to speak trying to outdo the other. I shall moreover prove that not even Goering believed in the possibility of an aggressive war, and was himself opposed to war, and that my client received from him no information other than he would have received if their personal relationship had not existed.

Regarding Germany's presumed attack on Russia, I shall in the first place try to establish that this was not an illegal aggression but a permissible defensive attack. It is no longer established beyond a reasonable doubt that Hitler attacked and that he did not defend himself. The IMT contention, that it is impossible to believe that anybody could seriously entertain the view that the attack on the Soviet Union was justified because the latter planned and prepared to attack Germany, is outdated. The same is true of the IMT statement, that the evidence proved beyond doubt that the Soviet Union had for its part, adhered to the rules of the non-aggression pact concluded between Germany and the U.S.S.R. on 23 August 1939. But regardless of how one may look at these questions my client bears no responsibility because he believed to the last minute that Germany would attack Russia only if it were absolutely necessary for Germany's defense. Nor could even the extensive preparations for the economic utilization of Russian territory to be occupied in the event of war—in as far as my client had anything at all to do with this, and was informed about these preparations—raise any doubts in him about their defensive purposes. He was, on the contrary, bound to find it natural in the circumstances that Germany should, strategically speaking, attack even in the event of a defensive war. I shall establish proof of all this.

I shall finally prove that my client's share in the economic utilization of Russian territory was so insignificant that it cannot be called participation in *waging* aggressive war—if it was such a war.

Regarding the narrow definition which the IMT gave of the perpetration of crimes against the peace, I hereby refer to its judgment and shall further discuss this matter.

2. The indictment classifies as *spoliation* something which is not thus named in the Hague Rules of Land Warfare. Spoliation in the sense of Article 47 of this international agreement is what one always understood it to be, namely, the confiscation of movable private property out of avarice, especially as practiced by looting soldiers. The indictment calls spoliation what is in reality organized economic utilization, and it apparently derives this

new definition of spoliation from the sum total of the regulations of the Hague Rules of Land Warfare, taking the general meaning, as it were, of the regulation for the protection of private property as contained therein. I shall show that that is not the way the Hague Rules of Land Warfare should be interpreted. The absolute protection of private property, which is its underlying principle, has long been infringed by all belligerent powers. With the expansion of armed warfare confined solely to combatants—which is the basis of the Hague Rules of Land Warfare —to total war by way of economic and aerial warfare, this protection came to be more and more subordinate to military requirements. Nobody seems to doubt that it is permitted to destroy private property to accomplish war purposes, regardless whether this serves indirect war purposes or not, even when it is only in connection with attacks on the morale of the population. Should it, in view of this, really be illegal to *utilize* private property in order to achieve the purpose of war although—and this I must say, so as to emphasize the contrast—it remains intact in the process? I shall discuss this in detail.

Regarding the criminal acts, I shall prove that Germany's activity in the occupied areas—excepting a few incidents which are unfortunately inevitable in events of such scope—was in fact a regulated *economic utilization,* and that the German administration, in sharp contrast to the allegation of the prosecution, exercised all justifiable consideration for the population of the occupied areas. The defense argumentation for the defendant Koerner questions a number of things which one has already grown accustomed to regard as truths; and I could entitle a considerable portion of my argumentation: "It was all quite different." I have stated above that I intend to prove that the war against Russia was a defensive war. After the occupation, it was not a case of millions having to starve in Russia because the Germans had effected an economic utilization of the country but millions of Russians *not* having to starve because the German administration saved them from that. The big words used by Goering and other prominent personalities do not alter this fact, because there was a wide gulf between theory and practice. I shall prove that this was so.

To judge whether an act can constitute spoliation or not, the essential point is *when and where* it was committed. In Russia, everything utilized for German economy was state-owned, so that conclusions reached from the Hague Rules of Land Warfare concerning the protection of private property do not apply. Spoliation cannot be committed in one's own country; thus, if the

Sudetenland, or the Protectorate, or the annexed parts of West Poland which were once German, belonged to Germany after the annexation, the possibility of "spoliation" in these territories is eliminated as from that time. It must be denied that these acts—though they might objectively have to be regarded as spoliation—are criminal, when my client believed, and was justified in believing, that these areas were German. I refer in this connection to the aforementioned meaning of errors not falling within the jurisdiction of criminal law, a point to which I shall also come back in my trial brief.

In spite of the treatment of the aforementioned points of view, the main *defense of my client,* also as regards spoliation, will be the fact that because of the nature of his job and his activity in connection with the use made of the occupied territories he bears *absolutely no criminal responsibility.*

As far as concerns the accusation of spoliation in connection with the *Hermann Goering Works,* I wish to point out that all actions committed after spring 1942 have to be excluded, because Mr. Koerner gave up all his positions in the concern at that time. For the time prior to this it is of importance that my client was only chairman of the Aufsichtsrat and that, according to plain German law, contrary to the prosecution's statements in its "Basic Information," the Aufsichtsrat is no administrative body but only a body which exercises certain rights of supervision. The responsibility for the management of the business is the concern of the Vorstand alone. For the purpose of saving time, and in view of the distribution of work agreed to among counsel for the defense, I shall leave counsel for the defendant Pleiger to deal with the actual details. The same applies also with regard to the accusations which could be leveled against the defendant Koerner under count seven in connection with his position at the Hermann Goering Works.

A special situation arose regarding the *evacuation measures* during the German retreat from Russia. Those measures were military orders based on military necessity, and the defendant Koerner had nothing to do with them.

3. The problem of *forced labor*—count seven of the indictment—is covered by the term slave labor and the generalization of individual cases. In reality the situation was extraordinarily complicated and had many different angles. It is considered permissible in bombing warfare to kill the enemy's workers and other noncombatants for the purpose of achieving war aims. However, it is supposed to be forbidden to keep noncombatants

of the enemy alive but make them work for the realization of war aims. The defendant Koerner does not approve of forced labor, neither do I. It is one of the most undignified methods of modern warfare there is. But I am of the opinion that identical standards have to be applied in the formulation and the application of international law, and I shall take the liberty of presenting actual and legal material in this connection.

A further point—forced labor, interpreted as criminal by the London Charter, Control Council Law No. 10, and the prosecution in these trials, is constantly being practiced by the whole world. When realizing this fact it is not a question of the point of view of *tu quoque,* to which I shall refer again later on, but merely of ascertaining up to which point the interpretation of international law actually goes today, something which cannot be deduced from programs or good intentions but only from facts. Does it go as far as to prohibit forced labor or does it permit it? I cannot imagine that Great Britain, France, Poland, and Yugoslavia would employ great numbers of German prisoners of war for forced labor if they considered this a crime in international law.

Nor can I imagine that forced labor is considered as a crime by Russia, the very country which—as I shall prove—has been advocating the admissibility of forced labor in the UNO Committee for Human Rights up to this very day. Here we are considering a problem which, I think, is one of the aspects of a general decline of human civilization and of the sense of justice. The opinion has been maintained in literature, and occasionally, I think, also by the prosecution, that in these circumstances it is at least a step forward if some of the people who helped to carry out such measures during the last war are punished. This would certainly be right if the prohibition of forced labor were a valid law. Such a law ought to be applied without mercy and against everybody. To a legal maxim, however, belongs legal conviction and the law's binding force. As far as forced labor is concerned, both of these elements seem to me to be lacking, and in this respect I can, I think, produce evidence by merely referring to the abundant facts which are known to the Honorable Tribunal in any case. If however, a law is applied which is actually not a law, but only bears the semblance of a law, further development into a genuine legal maxim is impeded if the imperfection inherent in the existing legal position is concealed. I believe that here the jurisdiction of the Tribunal will have to face a very far-reaching problem. As things are, another conviction for participation in forced labor measures would further help to deceive the world about the regrettable inadequacy of the present legal position. If, however, a Nuernberg tribunal refused to give judgment

against the defendants, arguing that the actual legislation of the world no longer justified any conviction, such an attitude would reveal this inadequacy with almost unparalleled force. It would have the effect of a searchlight focused upon a weak spot. The decision as to whether a defendant is to be convicted or not, does not depend upon what the law ought to be, but merely upon what the law actually is. Nothing is more fatal to faith in the law than a judgment which can be connected, however remotely, with any purpose other than the purpose of administering *justice,* however good the purpose may be, as for instance the purpose of paving the way for a better, but after all, a *future* legal system.

As far as the defendant Koerner in particular is concerned, I am going to prove that my client in his position in the Four Year Plan had nothing at all to do with slave labor or the exploitation of foreign workers or the employment of prisoners of war for work which was not permitted. Up to the appointment on 21 March 1942 of the Plenipotentiary General for Labor Allocation, Sauckel, who was quite independent of the Four Year Plan, and Mr. Koerner, my client had nothing to do with forced labor, and later on was only connected with it in his capacity as member of the Central Planning Board. I have already discussed the fact that the Central Planning Board had no material competence of its own but only served to exercise Speer's authority. The Central Planning Board was a stage on which a play by Speer was performed under Speer's direction, and not even with actors, but with mutes. There was no voting at all. The second member of the Central Planning Board—Field Marshal Milch—was punished for his membership, because the Tribunal interpreted as participation in coercive measures several harsh remarks on Milch's part and his earnest desire to procure labor. The minutes of the Central Planning Board show that the part played by Koerner was entirely different. In addition, I am going to prove whether or not and to what extent the Central Planning Board was really responsible for questions of recruitment and of the utilization of forced labor and that even formally only Speer and Sauckel were competent in this very field.

Generally speaking I am going to prove that after certain regrettable occurrences during the initial period the conditions for forced labor in Germany were tolerable on the average and that neither the treatment nor the nature of the labor allocation was incompatible with the principles of humanity.

Finally I am going to show that—as is the case with spoliation —the question of forced labor too cannot be discussed in cases where German territories are concerned or such areas as could

be considered as German by the defendant Koerner. The same applies to France. I am going to prove that there was a legal and sufficiently independent government in France, and that the so-called French forced laborers consisted of workers who had been hired for work according to the laws of their own government. The position is different again in Russia. I am going to prove that in relation to Russia the Hague Rules of Land Warfare are not valid, and that the general rules of international law —regardless of what their purport may be in other cases—cannot mean in any case in relation to Russia that the utilization for labor of the inhabitants of occupied Russian territories is incompatible with international law, irrespective of whether this occurs inside or outside the occupied territories.

With regard to all this it will be of importance to know how many of the foreign workers in Germany had come voluntarily and how many by force. The statements made by the IMT with regard to this point are also no longer applicable.

VI. My client has not been indicted under *counts three and five.* I shall deal later with the attempt of the prosecution to include him under counts three and five through count two. With regard to count two the prosecution did not submit anything special against my client. The evidence will prove that the position and authority of my client make it impossible to assume that he belonged to a circle of conspirators.

With regard to count three, I refer here only to the fact that, according to the law as it prevails within the American Zone [of Germany] on the basis of orders issued by the Military government, a man who was drafted into the Wehrmacht before 1 September 1939 and remained a member of the Wehrmacht until the end of the war does not come under the IMT judgment. This is the case with my client. The IMT judgment concerning membership of criminal organizations can therefore not be applied to him.

VII. There remains the argument of *tu quoque.* Although the IMT has in fact made reservations, it has in principle recognized the right to appeal to this argument. This argument of *tu quoque* is of extraordinary importance for the Nuernberg jurisdiction and does not by any means involve the fate of the defendants only.

If the Nuernberg verdicts have any effect upon the future they will do so only and insofar as the authority of true justice and the binding force which proceeds from judges, who obviously only serve true justice can exercise their influence. The fact that the IMT acquitted Admiral Doenitz of the charge of carrying out unrestricted U-boat warfare is far more important than that

others were sentenced by it. The argument that reference to the *tu quoque* is unjustified because in Nuernberg crimes by Germans are being dealt with and not crimes by other parties, is of a polemic nature and does not apply in this case. The question of whether it is possible to punish others for something which one is doing oneself is answered by a primitive sense of justice. This means that all jurisdiction which does not take into consideration the argument of a true *tu quoque* is without any importance. In dealing with various facts of the case I shall have an opportunity of appealing to the argument of *tu quoque* on behalf of my client, and shall submit the relevant evidence.

VIII. In summing up I may say that never in my life have I felt deeper dissatisfaction with my work than in this case. The Koerner case as defined by the prosecution is a trial in itself. It comprises the German economy before the war, the economic system of Germany and of the largest part of Europe during the war, the charge of two aggressive wars, and the whole problem of forced labor.

The defense is lacking in everything—men, time, evidence, and literature. We have tried to submit to the Tribunal document books which are in some measure complete and in order. They are insufficient. This opening plea is insufficient if only because it is too short. It has been impossible to show the Tribunal even to some degree what the defense thinks and what it is aiming at, in view of the completely different starting points of prosecution and defense. The evidence will be absolutely insufficient, if only for the reason that, in view of the given conditions, the Tribunal itself cannot even hear various key witnesses; it receives paper instead of men.* Believe me, I am not speaking solely from the point of view of the defense, or for tactical reasons, but from a feeling of vexation that it will be immensely difficult to find a just verdict in this case, if today I am already referring to an argument which perhaps should rather be included in the final argumentation. If, at the end of this trial, the Tribunal puts into one scale everything which speaks in favor of the defendants, and into another scale everything which speaks against them, then it should not be overlooked that in the scale containing the guilt there is already considerable additional weight, namely, the weight caused by insufficient defense.

Mr. President, Your Honors, I wrote the last sentence that I have just read before I knew of the Tribunal's ruling of which

* Defense counsel refers to the exercise by the Tribunal of its authority under Military Government Ordinance No. 7, Article V, paragraph (*e*), "to appoint officers for the carrying out of any task designated by the tribunals including the taking of evidence on commission." The evidence taken before a commissioner, of course, became a part of the official mimeographed transcript.

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we were informed on Monday.[1] You can well imagine that this ruling has increased my misgivings enormously. The Tribunal gave me 7 days to prepare Koerner's case, and I appreciate that under the circumstances, I shall try to make the best of it. The feeling of insufficiency on the part of the defense has, however, been increased in me enormously. I ask the Tribunal to call the defendant, Koerner, to the stand.

V. Opening Statement for Defendant Pleiger[2]

DR. SERVATIUS (counsel for defendant Pleiger): Mr. President, Your Honors. The defendant Pleiger is indicted on three counts —crimes against peace, spoliation, and slave labor. He is, therefore, not indicted in connection with measures against the Jews, and he is not charged with membership in the SS or any other organization declared criminal. Each one of the three counts of the indictment mainly concerns a certain field of Pleiger's activity.

The crime against peace is associated with his activity in Keppler's office and in the Office for German Raw Materials and Synthetic Materials within the Four Year Plan. This is the time of the opening up of the poor grade ore mines in the Salzgitter area and the establishment of the Hermann Goering Works at Watenstedt.

The crime of the spoliation of industrial assets is associated with the extension of the big combine and the incorporation of enterprises in the new areas.

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[1] On Friday, 23 July 1948, the Tribunal issued the following order concerning the hearing of witnesses:

"Because of the undue amount of time which has been and is being consumed in the presentation of evidence on behalf of the defense and the necessity for greater expedition in the progress of the trial, the Tribunal, after due consideration of all factors involved, has determined upon the following course of proceeding, which is hereby ordered:

"1. Until all defendants who so desire shall have testified before the Tribunal, the Tribunal will not itself hear testimony of other witnesses.

"2. The testimony of all witnesses other than the defendants themselves in the first instance, will be presented before the Tribunal's Commission.

"3. After the defendants shall have testified before the Tribunal if due and expeditious progress has been made, the Tribunal will entertain and consider application from the defendants to itself hear the testimony of witnesses who have been or otherwise would be heard before the Commission. Pending testifying in his own behalf each defendant shall proceed diligently to present his other testimony before the Commission.

"4. All rebuttal and surrebuttal testimony will be taken in the first instance before the Commission unless, for special reason shown by written application, the Tribunal determines otherwise.

"5. Each defendant after giving testimony before the Tribunal shall complete the testimony of any remaining witnesses before the Commission.

"6. The case of each defendant shall be completed by the earliest practicable date and upon such completion counsel for prosecution and defense will prepare and submit to the Court their trial briefs relating thereto."

[2] Delivered on 4 August 1948 (*tr. pp. 14754–14769*). Extracts from the closing statement for the defendant Pleiger are reproduced in section XIII, and the final statement of the defendant Pleiger to the Tribunal in section XIV, volume XIV, this series.

The crime of slave labor is associated with Pleiger's activity in the Reich Association Coal, and with the operation of the Hermann Goering Works.

With regard to the charge of crimes against peace, I shall only deal with the charge of preparing and unleashing an aggressive war; I shall not deal in particular with the charge of waging an aggressive war during those years. I believe I am entitled to restrict myself in this manner, since the prosecution itself has not submitted any evidence of participation in the waging of an aggressive war. I am all the more able to restrict myself in this sense since there have been no convictions in other trials in which the facts of the case were identical. Thus there remains only the participation in the complicity of unleashing an aggressive war. I may take it that the judgments of other Tribunals in regard to this question are well known. I would still need to find out what particular conditions are present which make the case of Pleiger appear in a different light.

It seems to me that the prosecution considers the difference to be in the fact that Pleiger was not the owner of an already existing enterprise which had to carry out armament orders. The charge is probably that Pleiger built a new plant which was to serve aggressive war.

The Tribunal may perhaps ask itself why I am dealing at greater length with technical details in my case-in-chief and why I propose to submit expert opinions which prove the profitableness of the Reich Works. It may perhaps ask itself why the status of the iron producing and iron processing industry needs to be examined, and why questions of import and export as well as questions of foreign exchange and currencies need to be investigated.

The necessity results from the nature of the evidence submitted by the prosecution. The prosecution submits that Pleiger intentionally established an absolutely unprofitable enterprise. They declare that the Hermann Goering Works are an economic absurdity and consequently they draw the conclusion that the works could only have served an aggressive war. A detailed discussion of these questions might have been avoided if the prosecution had not submitted this obscure and far-fetched suggestion but had instead dealt in detail with the questions themselves.

It would not be necessary for us to deal with this matter if the prosecution, in accordance with the golden rule of evidence, had immediately submitted the best evidence which was at its disposal, namely, if it had asked the man who actually built the Hermann

Goering Works, the American, H. A. Brassert,* to take the witness stand before the Tribunal. The prosecution anxiously avoided mentioning this witness even by name, and it was left to me to disclose the existence of this great foundry expert. It then became known that the prosecution had already been in official contact with him since last year and had received an affidavit from him. This witness is quite obviously and conspicuously ill-disposed towards Mr. Pleiger. In his answers to the questions of the questionnaire he reviles him as an arrogant and insolent Nazi, but he knows nothing about the plant's having been built to serve aggressive war, and this is the only point that matters to me.

The answers in the questionnaire which I shall submit also show that the witness Brassert was reluctant to answer a very important question of the questionnaire. Before the war this same witness had also built a foundry in England, likewise for the smelting of low-grade ore, and prior to doing so he had discussed this with representatives of the British Government. It is significant that the witness has not hitherto answered the question as to whether the point of view of military economy was discussed in this connection.

I shall submit to the Tribunal Pleiger's real motives for the opening up of poor grade ore mines in the Salzgitter area; I will show that it had nothing to do with the establishment of a war plant, but represents economic pioneer work of the first magnitude.

I shall prove that the same aim, namely the smelting of poor grade ores, is a problem of the near future even in countries which are rich in ores. This is a question which must and will be undertaken by all governments. The American Government is no less convinced of the urgency of this problem than the Soviet Government, as I will prove to this Tribunal.

I shall also submit an anti-Fascist document, namely a letter from the "KPD," the Communist Party of Germany. In it the same reasons are given for describing the industrial efficiency of the Reich Works as an economic necessity as were formerly used by Pleiger in his arguments.

In order to strengthen its arguments, the prosecution seems to attach special importance to the words military economy and military potential.

I shall submit evidence that leading economists of the American iron industry have not found anything incriminating in military

* Herman A. Brassert, head of H. A. Brassert & Co., (Consulting Engineers), with main offices in New York City. In July 1937 the H. A. Brassert Co. of Berlin (known under the name of "Haberlin") was founded in connection with the planning and construction of the Salzgitter plants of the Hermann Goering Works.

economy; the same ideas of strengthening the armament industry for war were held in the United States of America before America itself took part in the war.

In order to avoid the charge of one-sidedness I shall submit—leaving aside the other countries—an extract from the Constitution of the Soviet Union. According to this, the strengthening of the military potential of the country is one of the tasks of the political economy of the Soviet Union. In order to prove the pioneer character of the defendant Pleiger's action, I shall deal with the events which lead up to the establishment of the Hermann Goering Works. In this connection I shall disclose the motives underlying all Pleiger's actions in the economic sphere.

I attach special importance to this development in its entirety because it is at the same time a key to Pleiger's later attitude, namely, in connection to the enlargement of the combine and his activity in the Reich Association Coal.

With regard to the count of crimes against peace, I shall call the following witnesses: Dr. [Adolf] von Carlowitz, Dr. [Paul] Rheinlaender, Dr. [Konrad] Ende, Dr. [Alfred] Laubenheimer and Director [Franz] Beckenbauer.

Two days ago I received two documents by Brassert, according to which the construction of the Hermann Goering Works was made by him under the explicit approval of the British Government.

Additional evidence has been compiled in my defense document books 1–4. To begin with, I shall not refer to the charges of spoliation and slave labor, but comment on the origin of the combine in general and deal with Pleiger's position in outline.

There it will be proved that Pleiger was not the sole and unrestricted master of the combine but that his authority became restricted from the very start and to an ever-increasing measure. I shall submit documents proving that Pleiger aimed only at the development of his life's work, that of opening up the Salzgitter mines and of establishing the requisite plant, but never at an unrestricted expansion of the concern. It will be demonstrated that Pleiger only remained at his post in order to save the plant, and the future of those dependent on it. For this purpose the following witnesses will be called by me: Dr. Ende, von Hanneken, Beckenbauer, and Dr. Rheinlaender.

In document books 5–A and 5–B is to be found additional documentary evidence including affidavits.

This general explanation serves to make Pleiger's responsibility understandable in regard to the charge of spoliation. This charge refers on the one hand to the acquisition of plants by way of property transfers, purchase of share majorities and company

rights as well as to the management of factories by trustee and cession-agreements in connection with plants. This method of spoliation I shall designate as *judicial spoliation.* Opposed to this we have to deal with *actual spoliation* by the seizure of objects, such as the dismantling of machinery and the removal of material.

I shall first of all examine the acquisition of the individual plants which came under the influence of the Hermann Goering Works, showing how far Pleiger personally participated in this acquisition. In doing so I shall prove that these acquisitions were based on directives and *orders* by Goering, and that in most cases the enterprises were already Reich property prior to their fusion with the Germann Goering Works. Documentary evidence in this connection is compiled according to the subject-matter involved:

For Czechoslovakia_____ document books 7–A and 7–B.
For Upper Silesia_____ document book 8.
For Government General_____ document book 9.
For France_____ document book 10.

The *legal* form of acquisition appears to me as unimportant, insofar as it was unprejudicial to the previous owners, if the legal actions as such are considered invalid under international law. The form is of importance only for the question of responsibility with regard to the inadmissible exploitation of the respective enterprises. I shall again refer to the various concerns in the order of countries involved, examining the question of destruction found there upon arrival and the subsequent *investments* made. I shall deal with the distribution of production, the distribution of profits and, finally, I shall examine what became of the plants after the evacuation of those territories.

Witnesses to be called in connection with these subjects are: Dr. Ende, Dr. Wisselmann, Dr. Monden, Dr. Damm, Sprick, Dr. Knott, Dr. Kocks, Dr. Debuch, Dr. Guido Schmidt, Dr. Flick, Director Beckenbauer, and Dr. Voss.

Documentary evidence will be found in document books 7–10 mentioned above. Document book 6 contains certain general data on the results of spoliation, and on Pleiger's fundamental attitude with regard to destruction.

I shall then deal with the charge of *actual spoliation* by dismantling, etc. I shall in this connection refer to individual cases as submitted by the prosecution. I shall show that each seizure of machinery was carried out following a clear *order from Army High Command,* and that, moreover, only such machinery was involved as formed part of so-called captured material which

was under the authority of the Army Command, and in many cases had been seriously damaged.

In addition to documents, the following witnesses will be called: Geilenberg, Rheinlaender, and Hofmann.

Subsequent to that I shall refer to Pleiger's position and activity in Berghuette Ost, and to his activity as *Plenipotentiary for Coal.* I shall demonstrate that Pleiger in his activity as *technical expert* with Berghuette Ost, gave only basic directives in his professional sphere; the practical administration was entrusted to the manager, Dr. Flottmann who, as Ministerialrat, was administrative expert. I shall show that Berghuette Ost was subordinated to and received directions from the Economic Staff East. Proof of this is to be found in document books 11–A and 11–B. As witnesses in this connection I present: Dr. Ende, Dr. Kocks, Dr. Monden, and Dr. Laubenheimer. As to Mr. Pleiger's activity as Plenipotentiary for Coal I shall, as evidence, refer to the results of other trials, proving that all accusations by the prosecution in this connection have already been refuted in other proceedings. I propose to call Mr. Steinbrinck as witness.

The last major count of the indictment concerns *slave labor.* There must be a distinction made here between two different specific charges. I shall comprise them under the designation of *"recruiting"* of labor on the one hand, and *"ill-treatment"* of workers on the other hand. In the procurement and recruiting of workers we are concerned chiefly with Pleiger's activity as chairman of the Praesidium of the Reich Association Coal and his part in the Central Planning Board.

In this respect I submit document book 12 concerning the Reich Association Coal. This involves the *problem of compulsion in a planned economy* and I am going to prove that Pleiger was subject to this compulsion and coercion like every other industrialist. I am going to show that Pleiger was not a state official and was not one of those persons who exerted pressure on others but that he was an *exponent of private industry* and tried to resist the pressure exerted by higher authorities as far as possible. In doing so he always advocated the interests of the coal mining industry. I am going to prove that particularly in this *industry* Pleiger was held in high esteem as being one of its own men; his activity was particularly appreciated and this industry expressly *approved* everything that Pleiger did on its behalf. Witnesses to be called in this connection are: Dr. Sogemeier, Dr. Rosenkranz, von Buelow, Goernnert, Milch, and Hayler. Documents are those contained in document book 13, specifically Documents 421–432, an exchange of correspondence between Goering, Pleiger and Speer.

I am also going to clear up the fairy tale concerning the *Dictator Pleiger* whose office nobody was willing to take over when he was very willing to resign from it. I am going to show that it was Pleiger's task in the Central Planning Board, and other offices, to serve as the industry's *shield against the attacks* made on it from all sides on account of the low production of coal.

It will become clear that Pleiger's supposed "demands" for labor actually were *not demands,* but that in all cases they were actually objections made in the form of demands designed to resist exaggerated claims upon the coal mining industry. Under a system of free economy the businessman has to provide against losses by means of demands and complaints regarding defects and similar measures; in a planned economy it is not a question of payment of damages that is at stake, but punishment is involved, and the charge of sabotage with subsequent trial by the People's Court. It is not money, but life that is at stake. The higher the position of a man the greater his danger and with his downfall everything crumbles behind him. In a planned economy evidence that all has been done to comply with official injunctions takes the place of the proof that debtors were reminded and defects referred to in good time.

Just as in a free economy, the course of regress is long and the one passes the liability on to the other in the form of claims for damages suffered, so the same occurrence may be found in a planned economy. Everybody looks for someone on whom to lay the blame and eventually finds him in the coal mining industry, that is, in Pleiger as the chairman of the Reich Association Coal. Pleiger, on the other hand, can only point out the lack of necessary conditions which is at the root of the evil, namely, the exaggerated demands fixed in the programs and the lack of promised labor.

All statements made in connection within this framework of planning are, when all is said and done, anticipated defense against the charge of sabotage. This should be particularly noted. I am going to show that Pleiger is not the first in the series of those who are responsible. He is not the representative of the social basis, which according to Eastern ideas and Control Council Law No. 10, Article II, paragraph 2(*f*), is at the root of every evil.

I am going to show that the mainspring is the *politician* alone, namely, Hitler and his assistant, Minister Speer.

I am going to show that Pleiger resisted the senseless plans concerning unlimited increase of production, which was bound to entail increased allocation of foreign labor. Here reference should be made to document book 14, Reich Association Coal,

concerning the procurement, recruitment, and requisitioning of labor.

I am further going to show that Pleiger tried to restrict the allocation of foreign labor and to utilize German labor to a large extent, above all men from the administration of the State and the Party and the overstaffed organizations.

Evidence—Witnesses Dr. Sogemeier, Dr. Rohland, and Dr. Flick.

Document book 12, [Pleiger] Documents 416–416a [Pleiger Exhibits 293–294] ; document book 13, [Pleiger] Documents 433–438 [Pleiger Exhibits 311–316]—an exchange of correspondence between Pleiger and the High Command of the Armed Forces and General Thomas.

As to the ill-treatment of labor I am going to make the following statements:

First, in connection with the Reich Association Coal, I intend to go through the charges concerning the mining industry and shall be able to refute, to a large extent, the prosecution's assertions and generalizations with regard to actual conditions. In particular I shall be able to clear up the three cases which are of importance here, namely, the inspection of foreign workers' camps in the Ruhr district by a committee of the Ministry of Labor and the Ministry for the East.

Evidence—17 affidavits in document book 16, [Pleiger] Documents 471–487 [Pleiger Exhibits 351–367].

Secondly, the complaint concerning the employment of tubercular Russian prisoners of war.

Evidence—affidavits of Fromm and Ulrich—document book 16, [Pleiger] Documents 488–489 [Pleiger Exhibits 368–369].

Finally the complaint of the High Command of the Army through Falkenhahn concerning conditions in Upper Silesia.

Witnesses—Heinrichsbauer and Norkus—document books 15 and 16, [Pleiger] Documents 495–498 [Pleiger Exhibits 375–378].

The results will show that Pleiger's apparently sharp statements at the Central Planning Board concerning the conditions of workers in the mining industry are exaggerated, tactical arguments made only in order to resist Speer's reproaches and strong pressure.

Subsequently I will deal with the ill-treatment of workers in the enterprises of the Hermann Goering Works Combine. The prosecution referred in particular to the construction enterprises at Watenstedt-Salzgitter and Linz.

In discussing the cases mentioned by the prosecution, the question with regard to direct responsibility in the various enterprises will be clarified. I am going to show that as far as the

labor question is concerned the works were independent and individually responsible. Evidence of this will be given by several witnesses.

I shall show that two enterprises which are of particular importance to the prosecution's evidence, namely, the Braunschweig Steel Works in the Salzgitter district and the Oberdonau Iron works at Linz, were, as Wehrmacht enterprises of the Army High Command [Armed Forces High Command] separated from the Hermann Goering Works with regard to labor questions altogether. Evidence—Mr. Geilenberg, Dr. Roeser, Dr. Rheinlaender (*affidavit document book 5b, Pleiger 122, Pleiger Ex. 87*), and Mr. Schilken (*affidavit document book 18, Pleiger 545, Pleiger Ex. 426*).

I shall show that the witnesses summoned by the prosecution for this matter can be confronted by witnesses of equal standing who give a different picture of the conditions. It will be proved that the descriptions given by the prosecution witnesses are exaggerations; the motive of such descriptions can be found in the economic or political interests of the witnesses.

As far as conditions in Linz in particular are concerned there has as yet been no opportunity to find and interrogate witnesses on the spot. Besides the witnesses allowed to me have not yet appeared.

I reserve the right for myself to make a further special statement on this point in case it should still be possible to overcome the difficulties existing in this case.

As evidence in connection with this whole count of the indictment I submit:

Witnesses—Beckenbauer, Dr. Rheinlaender, Dr. Laubenheimer, Wolscht, Dr. Schauf, and Joerss.

Documents—document books 17 and 18.

The employment of concentration camp inmates forms the conclusion of the presentation of evidence concerning cases of ill-treatment.

I shall prove that in the Ruhr district mines Pleiger was successful in his efforts against the employment of concentration camp inmates, but that in the long run, however, he was unable to withstand the pressure brought to bear by political offices.

I shall prove that the employment of concentration camp inmates in the Watenstedt works was expressly ordered by Goering, and that Pleiger was faced with an accomplished fact.

Also with regard to the utilization of slag at Linz, which was to be managed by the SS, I shall prove that Pleiger maintained a marked reserve towards the efforts of the SS and cannot be considered as having been the prime mover.

Witnesses—Dr. Rheinlaender, Geilenberg, Meinberg, Dr. Laubenheimer, Heine, and Burzcyk.

Documents—I shall present document book 19 containing a number of affidavits.

Document books 20 and 22 contain a summary of the important regulations concerning labor allocation.

The general picture of the defendant will show a man who energetically pursued a high national economic aim, and in this respect was dependent on the possibilities of his own country offered by the conditions prevailing at the time. He encountered difficulties and suffered reverses which are the lot of every pioneer, and he had to adapt himself to conditions.

Many men who opposed him in the beginning asked for his help later on; and those who had helped him at first subjected him to pressure afterwards.

It will be acknowledged that this was a man who stood up freely and openly wherever it was possible for him to do so; a man who courageously tried to make Goering and even Hitler lend a willing ear to his ideas and opinions; a man who therefore enjoyed great respect for his straightforwardness and who was called in to help wherever it was necessary to fight against folly.

However, Pleiger was not a member of a resistance movement that kept its activity secret. He was a man who stood up openly and did whatever could be done at the moment.

With regard to Pleiger's personality, I have submitted a few affidavits in document book 23. They will enable a judgment to be made as to whether Pleiger was a fanatical Party member or a man who deserved respect and recognition by reason of his conduct.

With Your Honors' permission, I beg to call the defendant Pleiger as witness to the witness stand.

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W. Opening Statement for Defendant Kehrl*

DR. GRUBE (counsel for defendant Kehrl) : Mr. President, Your Honors. Hans Kehrl is accused—

1. On count five, as an alleged member of the Circle of Friends.

2. On count six for alleged participation in spoliation in the occupied territories.

3. On count seven, for alleged participation in measures connected with forced labor.

* Delivered on 11 August 1948 (*Tr. pp. 15522–15532*). Extracts from the closing statement for the defendant Kehrl are reproduced in section XIII; and the final statement of the defendant Kehrl to the Tribunal in section XIV, volume XIV, this series.

4. On count eight as alleged member of the SS.

I do not intend to introduce my argumentation by contributing to the discussion, launched at home and abroad, on the Nuernberg Trials and their methods of procedure. Neither is this the time to consider the question of whether the substantive penal law applied here is representative of international or national penal law, whether punishment on the basis of international law not previously transformed into national law is possible at all and so on. Without identifying myself with this opinion, I shall proceed in my argumentation from the broadest aspect, the point of view adopted here at Nuernberg, that is, the opinion that the punishment of a German is possible even on the basis of international law. Therefore my argumentation will of necessity have to deal with the question of what is the present position of international law.

This, however, is of minor importance in connection with the accusation of alleged membership of the Circle of Friends and that of alleged membership of the SS; in this respect my argumentation will essentially be limited to the ascertaining of facts.

The prosecution does not actually maintain that Kehrl made financial contributions to Himmler's Circle of Friends. Moreover, I shall prove that Kehrl's active participation in meetings and affairs of this circle, as referred to under paragraph 50 of the indictment, was limited to his presence at a few wholly unimportant dinners given by this Circle. As to the accusation made against him under paragraph 73, that of having been a member of the SS, evidence will show that he was nothing more than an "Ehrenfuehrer" [Honorary Leader], that he was therefore not a member of an organization declared criminal and that, consequently, count eight of the indictment does not apply to him.

Actions laid to the defendant Kehrl's charge under count six (spoliation) and count seven (forced labor)—provided they can be proved—are, according to Article II, paragraph 1(*c*) of Control Council Law No. 10, only war crimes if they are committed in violation of the laws or customs of war. To be classed as crimes against humanity they would have to offend against the penal principles of all civilized states.

Part of my argumentation will therefore serve the purpose of outlining the extent of the authority of the occupying power according to modern international law and modern penal law. This applies, first of all, to the question of the degree to which the occupier is entitled to make use of the economy of the occupied territory, that is to say, whether it is at his disposal merely to supply the requirements of the army of occupation, or whether

he is entitled to make use of it for the future prosecution of the war and for military operations. It will be shown that this question has always been a moot point, but that it has now been answered unequivocally even by the Allies—at least ever since the latter first had an opportunity of administering occupied territories, namely, Sicily—to the effect that the economy of an occupied territory may be used not merely to supply the requirements of the army of occupation, but also for further military operations. Furthermore, on the basis of the Manual for Civilian Affairs of the American Military Governments, [Field Manual 27–5] issued on 14 October of last year by the American War Department, I shall prove that this is the official American opinion even today. On the strength of this document I shall demonstrate that the American Military Governments in the occupied territories were directed to the effect that,* "military necessity is the primary underlying principle in the conduct of the American Military Governments." The document will further bear out that the American Military Governments are informed that their highest aim and their main task is "to assist the military operations," and that they are directed to give this support to military operations, among other things, by "mobilizing local resources in aid of military objectives." Accordingly, the basic principle of United States Military Government shall be "to develop the area as a source of supply for further operations."

These service directives consequently circumscribe the function of military governments, as I shall prove, in the following manner:

> "The primary function of the Civil Administration—Military Government personnel—during hostilities is to further the mission of combat forces in every way possible, such as by administration of the civilian population so as to prevent interference with military operations and by reconstruction of civilian administration and the economy so that local resources in manpower and essential materials may be utilized to further the military operations."

I shall establish that by recognized international law the occupying power is authorized, for war purposes, to bring the entire economy of the occupied area under its control, to issue rationing orders, set up production schemes, close or open enterprises, etc. I shall further prove that, under generally recognized international law, the occupying power may, for war purposes, bring under its control immovable private or public property, operate private and public enterprises of every kind, etc.

* Quotations are German translations or interpretations.

Regarding movable private or public property, I shall prove that generally recognized international law again gives the widest interpretation in the question of the occupying power's authority. This applies, for one thing, to the type of goods which the occupier may appropriate according to Articles 52, 53, or 55 of the Hague Land Warfare Convention, but it applies also to the utilization of these goods. It will be shown that—contrary to the assertion of the prosecution—the occupier may, by generally recognized international law and practice, for instance according to Article 53, confiscate movable private property, even such as serves war purposes only indirectly, and ship it to his own country. In the same way he has full, unrestricted power to dispose, for instance, of the entire crop harvested on public land.

I shall prove that the question as to how far the occupying power is authorized to dispose of manpower in the occupied area, is interpreted in the same wide sense. I shall introduce documents showing that, for instance, the official U.S. Army textbook [Handbook for Military Government in Germany], published in 1944, on occupation law declares literally—

> "It must be admitted that the Hague Land Warfare regulations and international practice permit forced labor."

By submitting Control Council Proclamation No. 2, dated 20 September 1945, and Control Council Order No. 3, dated 17 January 1946, I shall show that this interpretation is correct. The Morgenthau plan, and Control Proclamation No. 2 dated 20 September 1945 will moreover prove that other countries regard deportation for forced labor as legal; and it is a well-known fact that the Soviet Union liberally avails itself of the possibility of deporting Germans, which the Control Council thus concedes.

The prosecution claims that Germany took goods from the occupied areas to an extent that did not take into account the needs of the population and was in no proportion to the resources of the country. This assertion of the prosecution will prove to be completely irrelevant from the legal point of view, because it is not in accordance with the practice of international law. Thus, for instance, a passage in the work report of the Economic Department of the United States Military Government, published under General Draper by OMGUS, Berlin, in 1947, concerning German economy since Potsdam, reads:

> "* * * The Laender governments were informed that goods must be exported at all costs, even if they were urgently needed in the home market. Therefore a large scale program for the export of building lumber was started, although there is unparalleled destruction in German towns, and although,

before the war, Germany had, above all, to import wooden goods."

I shall show the extent to which these ordered goods transports have been carried out so far, and what effect this had and still has on supplies for the civilian population and industry. It will be shown, for example, that last year the textile allocation for the German civilian population per person was only 81.2 gr.* in all for the year, a fact which is quite important, because Kehrl, as is well known, is charged with offenses in this very textile field.

In addition, the question will have to be clarified as to the extent to which the needs of the civilian population are to be taken into account by the occupying power according to usage in international law. I am going to show that in the report of the Economic Department of the American Military Government, OMGUS, Berlin, this was fixed as follows:

"It means the absolute minimum required by men and women in order to do the work expected of them."

And I shall show, on the basis of the aforementioned official instruction, dated 14 October 1947, which was given to the American Military Government, that the requirements of the civilian population of the occupied area with regard to food, clothing, etc., are to be taken into account insofar as this is necessary to prevent widespread disease and unrest, which might endanger the occupying powers, and to attain the purposes of the occupation.

This part of my argumentation, as has already been mentioned, is intended to indicate the extent of the rights and duties of the occupying power. I shall prove by means of the interrogation of the defendant Kehrl, and by means of witnesses and documents, that Kehrl, with respect to the facts with which he is charged—insofar as he took part in them at all—by his acts never attained, much less went beyond, the limits of the functions of the occupying power. In fact I shall prove that the actions in which Kehrl took part, and with which he was connected, were absolutely within the limits of the functions of the occupying power, even if the scope of the functions be given the narrowest possible theoretical interpretation. Beyond that I am going to show that Kehrl, on his own initiative, at the expense of the German economy and civilian population and in favor of the economy and civilian population of the occupied territories, granted considerable assistance and help, although the occupying power had no obligation whatever in this respect.

* Gram—one thousandth of a kilogram. A kilogram is two German pounds.

The charges against Kehrl in paragraph 56 of the indictment refer to the transactions in the Sudetenland and in the Protectorate of Bohemia-Moravia, that is, to actions which the Nuernberg Military Tribunals, in particular in the recent judgment in I.G. [Farben] case, did not include as being subject to conviction. Since in Case 11 the proceedings have not as yet been discontinued, so far as this count is concerned, I shall have to submit evidence in this respect too. The evidence will show that all these transactions, as far as Kehrl was connected with them at all, had been concluded prior to 1 September 1939. In addition the evidence will show that these transactions were not carried out in the form of expropriations, but in the form of contracts of sale concluded in a perfectly honest manner. Furthermore the evidence will make it clear that these transactions were not due to Kehrl's initiative, but that the Czechs themselves were extremely interested in them. If the prosecution replies that this readiness to sell was in fact not due to pressure on the part of Kehrl or Rasche, but to general political conditions, then I reserve the right to assess these arguments in my final plea. In any case, however, I shall prove that the political situation which at that time made the Czechs ready to sell, was definitely not more powerful than for instance, today's situation, which is due to the currency reform of the occupying power, and which, as you know, has produced very great willingness on the part of German firms to borrow foreign capital. Finally I am going to prove that it was in fact Kehrl who insisted on the adoption of a particularly cooperative attitude when all these sales contracts were concluded, and who refrained from exploiting the political situation either with regard to the price or to other conditions.

As to the charges under paragraph 54 of the indictment, to the effect that Kehrl took part in the spoliation of France in the field of textiles by means of the Kehrl Plan, I am going to prove that there is no foundation whatsoever for this charge. I shall show that this Kehrl Plan was in the form of contracts concluded between the German and French Governments on the basis and in implementation of the armistice, and that Kehrl did not sign them. The evidence will show that Kehrl has no reason at all to be ashamed of the fact that these contracts bear his name. They were not dictated, but concluded in the form of a compromise in which French wishes and requirements were taken into account to the largest extent. The assertion of the prosecution that the French Government played the part of a puppet government will be refuted unequivocally. On the strength of detailed data based on figures, I am going to prove that the deliveries agreed upon in the so-called Kehrl Plan did not exceed the re-

sources of the country in any way, and covered only part of the claims of the occupying power. As I also shall point out, those deliveries were balanced by German deliveries which, as regards quantity and economic importance, were greater than the French deliveries.

As to the accusations under paragraph 58, namely, that Kehrl became guilty of plundering the Soviet Union in the textile sector by the activities of the "Ostfaser" and its subsidiary companies, I shall prove that those companies administered Soviet state enterprises in accordance with the strictest business principles, exclusively as trustees for the Reich, that those trust enterprises were not taken away from the owners or ruined by neglect, but on the contrary, they were turned into modern plants by extensive investments, new buildings, rebuilding, additional deliveries of numerous machines from the Reich, etc., in the way the "Ostfaser" altogether developed a real reconstruction activity contrary to Goering's directives. The question which has often been raised, namely, as to how the raw materials were seized, will find its answer in the fact that the raw materials were acquired by means of perfectly legal contracts at the regular prices, taking into full consideration the requirements of the indigenous population and including the collecting agencies and methods already in existence. I shall furthermore point out that, generally speaking, only those raw materials were exported to the Reich which could not be processed in the country, but that on the other hand, large quantities of raw materials and finished products were exported from the Reich to the East as additional supplies for the civilian population. Regarding the transporting of machines and goods to Germany during the retreat, the evidence will establish that these evacuation measures were not carried out on orders by Kehrl or the "Ostfaser" but on orders from military agencies. It will show that Kehrl even prohibited the removal of machines, that such removal took place in a few exceptional cases only and that Kehrl found out about it only afterwards. The machines and goods removed represented only a fraction of what had previously been sent to the East from the Reich, as will also be established. The activity of the "Ostfaser" was equally exemplary from the professional and human point of view and from that of international law, as will be proved beyond doubt by the original documents of the "Ostfaser" dating from the time of its activity.

The charge under paragraph 69, too, that Kehrl as chief of the Planning Office, actively participated in the drawing up and execution of the slave labor program from September 1943 to May 1945 will be refuted beyond doubt. It will be shown that Kehrl and his Planning Office neither had the competence nor carried

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out the activities which the prosecution maintains they did. On the contrary, without mandate or cause, only driven by the desire to prevent wrong being done, Kehrl actively opposed the calling-up by age-groups of workers in the occupied territories, from the very first moment he heard of that measure until the end of the German occupation, as will be proved by the evidence. It will be proved that Kehrl was the leading man in the fight against the compulsory draft sponsored by Sauckel; it was Kehrl who started the idea of the so-called protected plants in the occupied territories, which protected the workers from being drafted by Sauckel, and which were considered as mitigating circumstances for the defendant Speer in the verdict of the IMT. It was Kehrl who pressed for an increase in the orders placed in the occupied territories and for a further extension of the protected plants so as to frustrate the Sauckel operation. As is known, the verdict of the IMT lists as one of the reasons incriminating Speer the fact that during the meeting of the Central Planning Board on 22 April 1943, he rejected the suggestion that the lack of workers in the mining industry should be made good not by Russian but by German workers. It will be shown that this suggestion was made by Kehrl. Speer was sentenced because he rejected that suggestion and Kehrl is indicted because he made the suggestion. There could hardly be a better example to show how absurd the charges against Kehrl are.

The prosecution itself has obviously had grave doubts from the beginning as to whether Kehrl was to be indicted at all. As is known, he was not indicted in the indictment of 3 November 1947, but was included in this trial by the supplementary indictment of 15 November 1947, although he had been under detention since 6 June 1945 and interrogated again and again, and although the prosecution declared as late as October 1947 that it was not intended to indict Kehrl. The Tribunal, too, stated in its memorandum of 27 May 1948 that they recognized that there was a large margin for different opinions regarding the value of the evidence submitted in the case against Kehrl. I am convinced that the evidence will now remove the final doubts about Kehrl's innocence.

VI. CRIMES AGAINST PEACE— COUNTS ONE AND TWO

A. Introduction

Under count one of the indictment (pars. 1 through 24) 17 of the 21 defendants were charged with participation in and initiation of invasions of other countries and the planning, preparation, initiating and waging of wars of aggression and wars in violation of international treaties. Under count two (pars. 25 and 26) the same 17 defendants were charged with participation in the formulation and execution of a common plan and conspiracy to commit crimes against peace. The acts and conduct alleged in counts three through seven of the indictment were incorporated by express reference in the two counts on crimes against the peace. This was done on the theory that such acts and conduct "were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries" and "formed a part of said common plan and conspiracy."

All the defendants were charged under the two counts on crimes against peace except the defendants Steengracht von Moyland, Puhl, Rasche, and Kehrl. During the course of the trial the prosecution withdrew the charges under these two counts as to the defendants Bohle, von Erdmannsdorff, and Meissner. In its judgment the Tribunal convicted five of the defendants under count one, that is, the defendants von Weizsaecker, Keppler, Woermann, Lammers, and Koerner. Judge Powers dissented as to these convictions. The Tribunal dismissed count two as to all defendants charged. In separate orders after judgment, and acting upon defense motions alleging error, the Tribunal set aside the convictions of defendants von Weizsaecker and Woermann under count one.

Extensive argument concerning the aggressive war charges is reproduced in section V, this volume (Opening Statements) and in section XIII, volume XIV, (Closing Statements). The present section contains selections from the evidence offered by both the prosecution and the defense in connection with the aggressive war charges.

For purposes of clarity, the evidence on these charges has been grouped into the following seven sections:

VI B. Military Economy. The Four Year Plan. The Financing of Armament

VI C. The Invasion and Annexation of Austria
VI D. The Annexation of the Sudetenland and the Invasion of Czechoslovakia
VI E. The Invasion of Poland
VI F. The Invasion of Denmark and Norway
VI G. The Invasion of the Netherlands, Belgium, and Luxembourg
VI H. The Invasion of the Union of Soviet Socialist Republics

Because of the related nature of the successive invasions and of general military preparations to these invasions, considerable overlapping in the materials in these sections has been unavoidable. Each section, with one exception, begins with contemporaneous documents and concludes with testimony or affidavits. One section (VI G. The Invasion of The Netherlands, Belgium, and Luxembourg) begins with an affidavit and extracts from the testimony of the prosecution witness Friedrich Gaus, proceeds then with contemporaneous documents, and concludes with extracts from the testimony of defendants Schellenberg and Woermann. The contemporaneous documents, with few minor exceptions, appear chronologically, whether they were offered by the prosecution or the defense. By far the preponderant part of the "defense evidence" consists of testimony of defendants. At the point in the text where extracts from the testimony of a witness first appears, a footnote indicates the transcript pages of the official mimeographed record where the full testimony may be found. Where testimony reproduced herein discusses a document reproduced elsewhere in the volume, a footnote indicates the section in which the document may be found.

Space limitations have made it impossible to reproduce more than about one-twentieth of the evidence in the case. Several general topics of relatively less importance have therefore, been omitted entirely from separate treatment, notably the invasion of Greece and Yugoslavia and the diplomatic history preceding the declaration of war on the United States of America by Japan and Germany.

It should be mentioned that the evidence reproduced in four of the later sections (VII, IX, X, and XI, volume XIII) likewise bears on the charges of crimes against peace, since the factual allegations of the separate counts which are the subject of these four sections were by reference incorporated into counts one and two of the indictment.

B. Military Economy. The Four Year Plan. The Financing of Armament

TRANSLATION OF DOCUMENT NG–4142
PROSECUTION EXHIBIT C–57

LETTER FROM MINISTRY OF AVIATION TO MINISTRY OF FINANCE, 15 JUNE 1933, TRANSMITTING A JOINT DECREE OF THE MINISTRIES OF FINANCE, DEFENSE, AND AVIATION ESTABLISHING "FINANCE OFFICE L" FOR "SECRET PURPOSES OF THE MINISTRY OF AVIATION"

[Handwritten] Lu 1221[a] A — 20.6.33 [20 June 1933]

The Reich Minister of Aviation — Telephone: A 2 Flora 0047
Telegram: Reichsluft Berlin
Berlin W 8, 15 June 1933
Behrenstr. 68–70

Dept. D II 2 No. 338/33 secret

[Handwritten] (1) Enter Registry I Concerning (1) settled I 16 June.
(2) Submit Dir. I
(3) Mr. Max Ilgner* [Initial] M 15 June

Top Secret!
Receipt Necessary!

To the Reich Minister of Finance
c/o Ministerialrat Mayer (Josef)

Subject: Establishment of Finance Office L

[Luftfahrt-Aviation]
[Handwritten] Ve 1221–1 I

Enclosed I beg to submit copy of the joint decree of 10 June 1933 concerning the establishment of Finance Office L.

I intend to give notice of the sum required for Finance Office L in such a way that I shall indicate the total demand of my ministry for the individual periods when submitting the monthly monetary requirements. I shall then specify only how much of these requirements is needed for the purpose of Plan XVI. The remaining sum is intended for Finance Office L without my mentioning this in particular. This amount will serve as supplementary cash in hand of Finance Office L in proportion to the particular demand.

BY ORDER:
[Illegible signature]

* Ilgner, a member of the Vorstand (managing board) of the I.G. Farben, was a defendant in "The I.G. Farben Case," United States *vs.* Carl Krauch, et al., case 6, volumes VII and VIII, this series.

[Handwritten] Berlin, 20 June 1933
(1) Submit Ref. Wei [Illegible initials]
(2) To the files by order:
[Initial] M
Registry I Secret files [Illegible initial] 20/6

[Handwritten] Lu 1221[a] B Concerning D II 2 No. 338/33

Secret

[Handwritten] Ministry of Finance, c/o Ministerialrat Mayer (Josef)

Copy

The Minister of Aviation III.5 Berlin, 10 June 1933
The Minister of Defense
The Minister of Finance
[Handwritten] Q 2000–193 I

Top secret

Effective 1 April 1933, a special independent Finance Office will be established with the Ministry of Aviation for expenditures covering *secret* purposes of the Ministry of Aviation.

The Finance Office will be known as "Finance Office L." It will be under the control of the Minister of Aviation who alone will authorize acceptance of deposits and payments on the part of this Finance Office.

The business of this Finance Office will be to cash and to pay fully and in due time all *secret* budgetary receipts and expenditures within the sphere of the Ministry of Aviation, to enter them in books, to collect the receipts and, in accordance with the auditing code of the Reich, render the accounts to an account office which will be nominated by the Ministry of Aviation.

The Finance Office will in general make use of the Reich Main Finance Office for payments by submitting a list of the consignees and the amounts to be paid. Smaller payments in cash or payments into postal check accounts can be made by the Finance Office directly.

The Finance Office will receive individual orders from the Ministry of Aviation for the amounts to be cashed or paid which will be competent for the entry and the rendering of the accounts of receipt and expenditure.

The Ministry of Aviation will provide the Finance Office with the necessary working fund.

The opening of a postal check account is approved.

Finance Office L immediately pays back to the finance offices of the Ministry of Defense the amounts which have been paid in

advance for the above-mentioned purpose, after consultation with them [the finance offices] on the basis of statements supplemented by the necessary vouchers and orders. As far as other offices making payments for these purposes by order of the Ministry of Aviation, they will settle their account under the various headings with Finance Office L by the end of the year.

Effective immediately, Zeughauptmann[1] (ret.) Schulze, hitherto employed in Finance Office B of the Ministry of Defense, is transferred to the Ministry of Aviation. Furthermore, Vers. Anwaerter[2] Wiechmann will be assigned to Finance Office L. Reg. Oberinspektor Kwiatkowski is to be the Director of Finance Office L.

The finance office supervising officers as per Art. 17 RKO [Reichskassenordnung - Regulations for Reich Finance Offices] will be appointed by the Minister of Aviation.

The Ministry of Finance
[Schwerin von Krosigk]
BY ORDER:
Signed: OLSCHER

The Ministry of Defense
[General Werner von Blomberg]
Signed: v. BLOMBERG

The Ministry of Aviation
[Hermann Goering]
AS DEPUTY:
Signed: MILCH[3]

[Handwritten] Certified true copy:
Kwiatkowski, Reg.Ob.Insp.

[1] Rank of Captain, Ordnance, German Army prior to World War I.

[2] Rank referring to a German Civil Service "trainee" (or "intern")-type position.

[3] General (later, Field Marshal) Erhard Milch, defendant in the case of United States *vs.* Erhard Milch, case 2, volume II, this series.

PARTIAL TRANSLATION OF DOCUMENT NI-5380
PROSECUTION EXHIBIT 945

EXTRACTS FROM THE MINUTES OF THE MEETING ON 26 MAY 1936 OF THE ADVISORY COMMITTEE ON RAW MATERIAL QUESTIONS UNDER THE CHAIRMANSHIP OF GOERING, ATTENDED BY DEFENDANTS SCHWERIN VON KROSIGK, KOERNER, KEPPLER, PLEIGER, AND KEHRL, AMONG OTHERS

Top Secret

Record of the Meeting of the Advisory Committee on Raw Material Questions on 26 May 1936, at 4 o'clock

40 copies, 14th copy

Chairman: Minister President, General Goering

President of the Reich Bank and Acting Reich and Prussian Minister of Economics, Dr. Schacht

Reich Minister of Finance, Count Schwerin von Krosigk

Prussian Minister of Finance, Professor Dr. Popitz

Keitel, Major General, Chief of the Office of the Armed Forces [Wehrmachtamt]

Koerner, State Secretary in the Prussian State Ministry

Keppler, Economic Adviser of the Fuehrer and Reich Chancellor

Koch, Oberpresident, Gauleiter

Kroogmann, Presiding Mayor, Hamburg

Loeb, Lieutenant Colonel of the General Staff

Neumann, State Councillor [Staatsrat], Ministerialdirektor in the Prussian State Ministry

Dr. Sarnow, Ministerialdirektor in the Reich Ministry of Economics

Schlattmann, Chief Superintendent of Mines, Ministerialdirektor in the Reich Ministry of Economics

Brinkmann, Reich Bank Director

Blessing, Reich Bank Director

Herbert L. W. Goering, General Referent in the Reich Ministry of Economics

Dr. Trendelenburg, State Secretary, i.e., R. [in temporary retirement]

Fritz Thyssen, State Councillor

Schmitz,* Privy Councillor, I.G. Farben A.G

* Hermann Schmitz, chairman of the Vorstand of I.G. Farben, and a defendant in the I.G. Farben case (vols. VII and VIII, this series). This document was introduced as Prosecution Exhibit 400 in the I.G. Farben case and further extracts from this document appear in the section of volume VII, this series, dealing with the Four Year Plan.

Dr. Sogemeier,[1] [Berlin representative of Economic Chambers of Duesseldorf, Westphalia and Lippe]
Dr. Springorum, Director General, Hoesch Bros., Dortmund
Voegler, Director General; Vereinigte Stahlwerke A.G. [United Steel Works]
Flick,[2] Director General; Mitteldeutsche Stahlwerke A.G. [Central German Steel Works, A.G.]
Oskar Henschel,[1] [Director General, Henschel Aircraft and Locomotive Concern]
Dr. Beutner,[1] [Member of Aufsichtsrat of Allgemeine Elektrizitaetsgesellschaft (AEG)—General Electricity Corporation of Berlin, 1940]
Lange, Director, Economic Group for Machine Construction
Prof. Wagemann, Institute for Research on Economic Cycles
Ruelberg, Ministerialdirigent in the Reich Ministry of Economics
Josten, Ministerialrat in the Reich Ministry of Economics
Dr. Ungewitter, Economic Group for the Chemical Industry
Mundt, Oberregierungsrat in the Reich Ministry of Finance
Pleiger, Keppler Office
Kehrl, Keppler Office
Czimatis, Major, Reich Ministry of War and Office for Raw Materials and Foreign Exchange

Beginning of the conference at 16:13 hours

Minister President Goering: Thanks everybody for appearing. Since export matters were discussed in the last meeting, a survey of the raw materials situation will be given this time. Sworn stenographers have been employed in order to provide all the gentlemen with transcripts.

Cooperation requested in this way, that if gentlemen do not want to speak at once, they will submit their ideas and experiences briefly in writing.

The chief purpose is the connection with actual practice. He emphasizes that the whole meeting is strictly confidential, and that everything, above all the figures given, will be treated as a State secret. The participants are responsible that notes do not get into the wrong hands.

Ministerialdirigent Ruelberg states that the stocks of raw material shrank to 1–2 months, while they were sufficient for 5–6 months in the beginning of 1934. The use of raw material can be explained firstly by the revival of industry since 1933, and secondly by the sharp increase in armament.

[1] No title given in original document.

[2] Friedrich Flick, head of the Flick enterprises, and a defendant in the Flick case (vol. VI, this series).

	Quantity in millions of tons		Value in billions of RM	
	1932	1935	1932	1935
Total imports	33	47	4.6	4.16
Imports:				
Industrial, raw and semi-processed materials	22	40	1.7	2.1

In the spring of 1934 planned management was begun in order to equalize raw material stocks and raw material deficiencies in some places.

The new plan of September 1934 to place all imports under supervision brought an increase of the importation of industrial raw materials of vital importance with a decrease in the importation of manufactured goods.

* * * * * * *

Available metal content of the German ores:

1935, 4,500 tons; 1936, 5,000 tons; 1937, 5,800 tons

Zinc: Stock on 31 March 1934, 67,500 tons; on 31 March 1936, 16,000 tons

Average monthly consumption:

1933, 11,000 tons; 1934, 15,000 tons; 1936 (1st quarter of the year) 19,000 tons

Obtainable metal content of ores:

Monthly average:

1935, 9,400 tons; 1936, 10,700 tons; 1937, 14,000 tons

Any increase seems hardly possible

Minister President Goering: Asks why an increase is not possible. Says that he has been somewhat differently informed.

Economic Adviser Keppler: With reference to the manganese deposits of the Augusta Victoria mines he thinks it would be possible to increase production to 30,000 tons a year.

* * * * * * *

Chief Superintendent of Mines Schlattmann: Stresses that today very much oil is still being thrown away. He raises the point, that the quality of the lubricating-oil production can be improved considerably by recently acquired knowledge of American processes for refining oils. The Leuna-production has been concentrated more on German oils. Similarly, the Hamburg-Firms have been induced to use German-oils in order to have suitable machinery for German oil on hand in the A-case.* Meanwhile the

* A-Fall (A-case) was the code name for the event of war.

main supply must be provided by synthetic production. Synthetic oils have proved themselves to be of equally good quality as foreign oils.

Minister President Goering: Emphasizes that in the A-case we would not under certain circumstances, get a drop of oil from abroad. With the thorough motorization of army and navy the whole problem of conducting a war depends on this. All preparations must be made for the A-case so that the supply of the wartime army is safeguarded.

Ministerialdirigent Ruelberg: Total imports for 1936 (estimated) 155 million RM light-fuel-oils; 1.1 million metric tons equal 60 million RM. For the year 1937, still higher demands are to be reckoned with, so that at least the same amount of imports must be expected, whereby the quota of foreign cash currency will be raised.

* * * * * * *

Minister President Goering: Inquires, what kind of programme for synthetic rubber production is planned at home for the coming years, whether a sharp rise in production will come about if this has been refrained from as account of the price.

Economic Adviser Keppler: Factories are under construction, technical improvements are expected, it is to be hoped, that the work in progress will bring about changes which will cheapen production. Special hope for certain American processes.

Director General Dr. Schmitz: Agrees to this method adapted after thorough discussion in order to utilize experience in enlarging factories.

Minister President Goering: Indicates serious import reductions in the A-case through which price probably unimportant. Rubber is our weakest point.*

Minister Schacht: Not with regard to the amount of foreign-currency necessary. Also with oil, home production develops rapidly. The non-precious metals and ores play a more important part in relation for foreign currency.

* * * * * * *

Minister President Goering: Raises the question as to what extent rationed raw materials have been worked up into ready-made articles which are used in Germany. Says that frequently material is used for goods, which could be made of other material just as well. In this way a certain stock of rationed raw materials will be created.

Minister Schacht: Points out that there are no reserves avail-

* The circumstances of the development of synthetic rubber production in Germany was one of the leading issues in the I. G. Farben case, volumes VII and VIII, this series.

able of the kind we had in 1914 because production has been restricted for a long time and for two years we have been using substitute materials in many cases. Stock maintenance must be considered from the point of view of the entire national economy. Ford's[1] view is right if one is able to fall back on one's suppliers at any time. In the event of an increase turnover in his automobile business Ford needs a larger stock, but just like the big warehouses he can supplement his stock at any time because he can ask his suppliers to keep an adequate stock. In general, the total volume of supplies in stock increases with the size of the demand.

Minister President Goering: Agreed with the statement about substitutes and would like to know if the import of raw material has declined.

Minister Schacht: The latter has increased enormously.

Minister President Goering: Points out once more that the reason for this discussion was the desire to make the different gentlemen more familiar with the problems so that they can occupy themselves with them and look for ways to cope with the situation.

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Staatsrat Thyssen: Reports that in the eighties of the last century the Queen of England summoned a special commission to study the difficult economic situation. The report was sent to him from America. He recommends the preparation of a similar report on the German situation.

Minister President Goering: Proposes that another meeting should be held for asking counter questions and in conclusion expects proposals from the gentlemen present which he then intends to submit to a special commission for further consideration. This commission should have access to the statistical offices. Its task should be not only to report on the situation but also to develop proposals as to how we can recover from the present situation.

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Minister President Goering: Strongly advocates saving everything for the crisis [Ernstfall][2] but adequate preparations for exploitation must be made.

Chief Mining Superintendent Schlattmann: Preparations for the crisis were already made years ago.

Minister President Goering: Refers to our own extraction from German ores—Dogger and Salzgitter ores. He says what really

[1] Schacht is referring to Henry Ford. In a question (not reproduced herein) Goering asked if it were true that in times of good business conditions and high employment, inventories always decrease and an accumulation of larger inventories is prevented. Goering said Ford had proved this contention statistically.

[2] "Ernstfall" may be translated as "actual crisis," or "case of emergency."

matters is not what may be profitable and convenient but what will alleviate our situation as regards foreign exchange. He asks that it be made clear as to what extent these ores can be utilized.

Chief Mining Superintendent Schlattmann: States that this question is cleared up. The essential thing is to dress the ores in such a way that they can be smelted. This point is debatable. The silicic acid content is causing difficulties. It is calculated that the pig-iron would cost from 20 to 24 marks more per ton, but that must be overlooked in case of emergency. All measures must be prepared in such a way that we relieve our foreign exchange situation and are prepared in the event of war.

Director General Flick: Agrees with this, but points out that the problem is primarily a question of costs. The whole subject is not a short-term program. A perceptible relief cannot be expected for about 1½ to 2 years.

Dr. Springorum: Adds that it is not only a technical-economic question but that we are obtaining national reserves with these ores, as for instance the manganese deposits in Siegerland. They should only be worked insofar as is absolutely necessary.

Minister President Goering: Agrees with this. The important thing is to make it possible to convert to domestic production and smelting in the event of Case-A.

Economic Adviser Keppler: Shares Chief Mining Superintendent Schlattmann's opinion that we can make ourselves self-sufficient in zinc. He refers to the fact that the Salzgitter and Dogger ores constitute a reserve of 3 million tons.

Minister President Goering: A program lasting several years is of no use for the Case-A. The fall in the currency of our ore suppliers has made the prices about 30 percent cheaper as against peace. What is necessary in connection with our ores is not to confine ourselves to small experiments but to pass over to large scale operations, otherwise we will not have any production reserves in the event of Case-A. He agrees with Dr. Springorum that the Salzgitter and Dogger ores should be worked first of all, while saving the manganese deposits.

Minister President Goering: Closes the meeting and thanks the gentlemen for their participation.

TRANSLATION OF DOCUMENT NI–4955
PROSECUTION EXHIBIT 939

HITLER'S SECRET MEMORANDUM CONCERNING THE TASKS OF THE FOUR YEAR PLAN, 1936, TOGETHER WITH STATEMENT OF SPEER CONCERNING HOW HE RECEIVED A COPY OF THIS MEMORANDUM[1]

Albert Speer 22 August 1945

Adolf Hitler's memorandum concerning the tasks of the Four Year Plan—1936

This memorandum was given personally to me by A. H. in 1944 with the following statement:

The lack of understanding of the Reich Ministry for Economics and the opposition of German business [Deutsche Wirtschaft] against all large scale plans induced him to elaborate this memorandum at Obersalzberg.

He decided at that time to carry out a Four Year Plan and to put Goering in charge of it. On the occasion of Goering's appointment as the official in charge of the Four Year Plan he gave him this memorandum. There are only three copies, one of which he gave to me.[2]

Goering was appointed (through decree in the Reich Law Gazette) as the official in charge of the Four Year Plan, 18 October 1936, so that the memorandum might have been originated in August 1936 approximately.

My secretaries Edith Nagiera and Annemarie Kempf made this transcript in my office, for my archives in Nuernberg.

[Signed] ALBERT SPEER

The Political Situation

Politics is the leadership and the course of the historical struggle for life of the nation. The aim of these struggles is the maintenance of existence. Even the ideological struggles have their ultimate causes and receive their most profound impulses from the aims of existence determined by the national character of the nation. But religions and ideologies are always able to give to these struggles a particular bitterness and thus confer upon them a strong historical impressiveness. They leave their

[1] This document was introduced in evidence in the trial before the International Military Tribunal as Schacht Defense Exhibit 48 (See Trial of the Major War Criminals, *op. cit.*, vol. XV, p. 370). This accounts for the covering memorandum of Speer, dated 22 August 1945. The document is discussed by defendant Koerner in extracts from his testimony reproduced later in this section.

[2] From the minutes of the meeting on 4 September 1936 of the Ministerial Council under the chairmanship of Goering (EC–416, Pros. Ex. 940, reproduced in this section), at which this memorandum was read by Goering, it is clear that another copy of this memorandum was originally given by Hitler to the then Reich Minister of War, General von Blomberg.

imprint upon the history of centuries. Nations and countries living within the boundaries of such ideological or religious conflicts cannot seclude or exclude themselves from the events. Christianity and the Voelkerwanderung* have determined the historical course of centuries. Mohammedanism has shaken the Orient as well as the Occident likewise during half a millenium. The Reformation has driven the whole of central Europe within the sphere of its consequences. The individual countries were not able to exclude themselves from the events—either by cleverness or by deliberate indifference. Since the outbreak of the French Revolution the world is driven in a continuously increasing pace, toward a new conflict, the extreme solution of which is bolshevism, essence and goal of which is the elimination and the displacement of the hitherto leading social classes of humanity by the Jewry spread throughout the world.

No nation will be able to avoid or keep from this historical conflict. *Since marxism—through its victory in Russia—has established one of the greatest empires as a base of operations for its future operations, this question has become a threatening one. A concrete offensive design, based on an authoritarian ideology, opposes a democratic world which is ideologically split.*

The means of military power of this offensive design are rapidly increasing from year to year. One should compare the assumptions of the military circles of 10 or 13 years ago with the actually created Red Army of today in order to realize the dangerous extent of this development. One should consider the results of a further development within 10, 15, or 20 years in order to have an idea of the conditions which would then occur.

Germany

Germany will have to be regarded, as it always was, as the focus of the occidental world against the bolshevistic attacks. I do not consider this as a joyous mission but unfortunately as a severe difficulty and burden upon our national life, resulting from our disadvantageous position in Europe. But we cannot avoid this destiny. Our political position results from the following:

Presently there are only two nations in Europe which can be regarded as being firm against bolshevism—Germany and Italy. The other nations are either disintegrated by their democratic way of living, infected by marxism and therefore designed to collapse within the discernible future, or ruled by authoritarian governments, the only strength of which are the military means of power, which means that due to the necessity of protecting the existence of their leadership against their own people by the

* The migration of nations; especially the movement into southern and western Europe of the Teutonic peoples.

forcible measures of the executive power, they are unable to utilize these forcible measures outwards for the protection of the nation. All these nations would be unable at any time to wage a war against Russia with any prospect of success.

Generally, besides Germany and Italy, only Japan can be considered as a power resisting the world peril.

It is not the aim of this memorandum to prophesy the moment at which the untenable situation in Europe will reach the stage of open war.

I only want to express in these lines my conviction that this crisis cannot and will not fail to come, and that Germany has the duty of securing her existence against this catastrophe, at all cost and to protect herself from it and that this obligation gives rise to a series of consequences concerning the most important tasks ever imposed upon our nation.

For a victory of bolshevism over Germany would not lead to a Versailles Treaty but to a definitive annihilation and even to an extermination of the German nation.

The extent of such a catastrophe cannot be estimated. As in general, western Europe (Germany included) would experience, after a bolshevist collapse, the most horrible catastrophe humanity has known since the disappearance of the nations of antiquity. *With respect to the necessity of warding off this danger, all other considerations must be relegated to the background as completely unimportant.*

Germany's Defense Capability [*Abwehrfaehigkeit*].

Germany's defense capability is based upon several factors. As the first, I would like to emphasize the inner value of the German nation in itself. The German nation politically well-led, ideologically strengthened and militarily well-organized certainly represents the world's most valuable resistance factor today. The political leadership is secured by the National Socialist Party, the ideological unity has been promoted since the victory of National Socialism to an extent never reached before. Based upon this consideration, it must be deepened and strengthened more and more. This is the aim of the National Socialist education of our nation.

The military utilization [Auswertung] shall be accomplished through the new army.

The extent and the pace of the military utilization of our strength cannot be too large or too rapid.

It is a major error to believe that on this point any compromise or comparison with other necessities of life could come into being. However much the entire aspect of life of a nation should be a

well-balanced one, some one-sided shiftings to the detriment of other, not so vital tasks, must be undertaken at certain periods. *If we do not succeed in developing the German Army, within the shortest period to be the first army in the world with respect to training, mobilization of units, equipment and, above all, also in the spiritual education, Germany will be lost.* Here the basic principle is that what was neglected in the months of peace cannot be made up for in centuries. Thus, all other desires have to be unconditionally subordinated to this task.

For this task means the life and the preservation of life, and all other desires—however much they might be comprehensible in other periods—are unimportant or even dangerous to the continuation of life and therefore are to be rejected. Posterity will not ask us some day according to which methods, considerations, or opinions valid today we have carried out the rescue of the nation, but *if* we have carried it out. And it will be no excuse some day for our downfall if we refer at the time to the infallible methods which, unfortunately, caused our ruin.

Germany's Economic Situation

Just as the political movement in our nation has only one goal, the preservation of our existence, that is, the securing of all spiritual and other prerequisites for the self-maintenance of our nation, so the economy has also, only this identical goal. The nation does not live for the economy or for the leaders of the economy, for the economic or financial theories, but finance and economy, the leaders of the economy and all theories have to serve exclusively this struggle for the maintenance of our nation. But Germany's economic situation—briefly summarized—is the following:

1. We are overpopulated and our country does not yield the food we need.

2. If our nation has 6 or 7 millions unemployed, the food situation will be improved as a result of the nonexisting purchasing power of these people. It makes a difference of course if 6 million people have 40 marks a month to spend, or 100 marks.

It shall not be overlooked that this is a matter which concerns itself with one-third of those people who have to earn their living, which means converted with respect to the entire population that, through the National-Socialist economic policy, approximately 20 million people gained an increase in their standard of living from a maximum average of 50 marks a month to at least 100 to 120 marks. This means an increased and comprehensible rush on the food market.

3. But on the other hand if there is no increase in labor productivity a high percentage of the nation must be gradually

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withdrawn from the body of the nation, as valuable factor, as a result of undernourishment. Therefore the most important task of our economic policy—despite the difficult food situation—is to see that the prerequisites for normal consumption are created through the incorporation of all Germans into the economic process.

4. Insofar as this consumption concerns items of general utility, it can be effected to a large extent by an increase of production. Insofar as this consumption affects the food market, it cannot be satisfied from the sources of the internal German economy. The reason is that the output of numerous products can be increased without difficulty but the yield of our agricultural production can no longer be substantially increased. Likewise it is impossible for us to produce artificially or otherwise to replace individual raw materials which we do not possess in Germany.

5. It is, however, of no importance to state these facts again, and again, that is, to state that we need food or raw materials; what is decisive is to take these measures which can bring a *final* solution for the *future* and a temporary easing-up of conditions during the transition period.

6. The definitive solution lies in an extension of our living space, that is, an extension of the raw materials and food basis of our nation. It is the task of the political leadership to solve this question at some future time.

7. The temporary easing-up of conditions can be found only within our present economy. In this instance, the following must be stated:

a. Since the German nation will be increasingly dependent upon imports for her food, and likewise certain raw materials also have to be supplied from abroad under all circumstances, all efforts have to be made in order to render possible this importation.

b. The increase of our own export is theoretically possible but actually not very probable. Germany does not export to a political or economic vacuum, but into greatly disputed areas. Measured on the scale of the general international economic depression, our export trade has fallen—not only *not more*—but *less* than that of other nations and countries. However, since the food import as a whole cannot be substantially reduced but rather rises, a balance must be found by other means.

c. It is, however, impossible to utilize certain currencies designed for the purchase of raw materials for the import of food if the other branches of the German economy are not to receive an annihilating blow. *But above all it is absolutely impossible to do this at the expense of national armament.* I must reject here

with the utmost vehemence the conception, according to which a limitation of national armaments, that is, a limitation of the production of weapons and ammunition can bring an "enrichment" in raw materials which eventually could be profitable to Germany in case of war. Such a conception is based upon a complete misunderstanding—to put it mildly—of the task and military requirements lying before us. Because even a successful saving of raw materials attained, for instance, through a limitation of the production of ammunition, means only that we pile up these raw materials during a peace period in order to utilize them only in case of war, that is, we deprive ourselves of ammunition during the most critical months and we have instead the crude copper, lead, or perhaps iron. But in this case it would still be better if the nation entered the war without having a single kilogram of copper on stock but with well supplied ammunition dumps, than with empty ammuition dumps but so-called "enriched" raw material depots.

War makes possible the mobilization of even the last metal supplies. For this is then not an economic problem, but a question of will exclusively. And the National Socialist leadership of the nation will have the will and also the determination and the severity necessary to solve these problems in case of war.

Much more important, however, is to prepare for the war during the peace. But moreover the following has to be stated in this respect: There is no preparation whatsoever of raw materials for the war nor is there any preparation of foreign currencies. It is often tried today to present the situation so that Germany entered the war in 1914 with well-prepared quantities of raw material. This is a lie. No country is able to prepare in advance the quantities of raw materials required for a war if this war should last longer than, let us say, one year. But should a nation ever be in a position to prepare those quantities of raw material for one year ahead, then its political, military, and economic leadership deserves hanging. For they are already stocking up the available copper and iron instead of turning out grenades. But Germany entered the World War without any supplies whatsoever. The apparent peacetime supplies which were available at that time in Germany were more than compensated for and devaluated by the miserable war supplies of ammunition. *Besides, the quantities of war material required for a war are so large that an effective preparation of stocks for a long duration has never been realized in history.*

As far as the securing of supplies by means of accumulation of foreign currencies is concerned it is obvious that—

1. War can devaluate at any time foreign currencies as far as they do not consist of gold.

2. There is no guarantee at all during the war of realizing the transformation even of gold into raw materials. Germany still had during the World War very large currency assets in numerous countries. But for these assets our wise leaders of political economy were not able to supply Germany with sufficient quantities of fuel, rubber, copper, and tin. It is ridiculous nonsense if somebody asserts the contrary. For this reason, and in order to secure the food supplies of our nation, the following compulsory tasks result: *It is not enough to establish from time to time a raw material or a foreign currency balance, or to speak of a preparation of the war economy during peacetime, but it is necessary to provide all those means for peacetime food supply and above all for warfare,* which can be secured through human energy and activity. Consequently I draw up the following program for a final solution of our vital necessities:

(1) Parallel with the military and political armament and mobilization of our nation must occur the economic one and this at the same speed, with the same determination and if necessary with the same ruthlessness. In the future the interests of individual gentlemen cannot play any part. There is only one interest, and that is the interest of the nation, and only one conception, which is that Germany must be brought politically and economically to the point of self-sufficiency.

(2) For this purpose, foreign currency must be saved in all those fields where needs can be satisfied by German production, in order that it may be used for those necessities which under all circumstances can be fulfilled only by imports.

(3) In this sense, the German fuel production must now be developed with the utmost speed and brought to definitive completion within 18 months. This task must be handled and executed with the same determination as the waging of a war, since on its solution depends the future conduct of the war and not on a stocking-up of gasoline.

(4) The mass production of synthetic rubber must also be organized and secured with the same speed. The affirmation that the procedures might not be quite determined and similar excuses must not be heard from now on. The question under discussion is not whether we wait any longer, otherwise the time will be lost, and the hour of danger will take all of us unaware. Above all, it is not the task of the governmental economic institutions to rack their brains over production methods. This matter does not concern the Ministry of Economics at all. Either we have a private economy today, then it is its task to rack its brains about production methods, or we believe that the determination

of the production methods is the task of government; then we do not need the private economy any longer.

(5) The question of production costs of these raw materials is also of no importance, since it is still more profitable for us to produce expensive tires in Germany and utilize them, than to sell theoretically cheap tires, but for which the Minister of Economics cannot grant any foreign currency, which therefore cannot be produced because of the shortage of raw materials and consequently cannot be utilized. If indeed we are obliged to build up an internal economy in the autarchic sense—and we are obliged to do it since the problem will certainly not be resolved through lamentations and the recognition of our needs for foreign currency—then the price of raw materials, individually considered, does not any longer play a decisive part. Furthermore, it is necessary to increase the German iron production to its utmost limits. The objection that we are not able to produce a similarly cheap raw iron with the German ore which contains 26 percent of iron, as with the Swedish ores containing 45 percent of iron, etc., is of no importance, since we were not asked what we would prefer to do, but what we can do. The objection that in this case all German blast-furnaces will have to be transformed is also unimportant, and above all it does not concern the Ministry of Economics. The Ministry of Economics has only to set the tasks of the national economy; the private industry has to fulfill them. But if the private industry considers itself unable to do this, then the National Socialist State will know by itself how to resolve the problem. Besides, during 1000 years Germany did not have any foreign iron ores. Even before the war, more German iron ores have been processed than during the time of our worst decline. *Nevertheless, if we still have the possibility of importing cheaper ores, then it is all right. The existence of the national economy and especially of the conduct of war must not depend on this.* It is, furthermore, necessary to prohibit the distillation of potatoes into alcohol. The fuel must be gained from the earth and not from potatoes. Instead of this we have the duty to utilize any possible free farm area for purposes of feeding humans or animals or for the cultivation of fibrous materials. Furthermore it is necessary to make the supply of *industrial* fats independent of the imports within the shortest time and to meet it with our coal. This problem is resolved chemically and is actually crying for its solution. A German business will understand the new economic tasks or it will show itself unable to exist any longer in this modern time during which the Soviet State builds up a gigantic plan. *But then not Germany will be ruined, but only some producers.* It is furthermore necessary to increase the ex-

traction of other ores, *without considering the cost,* and specially to increase the production of light metals to its utmost limit, in order to find a substitute material for certain other metals.

Finally, it is also necessary for the armament to utilize, if possible already at this time, those materials which will have to be and will be used in case of war instead of precious metals. *It is better to think over and resolve those problems during peacetime than to wait for the next war, and to undertake only then, within the framework of the numerous tasks, those economic investigations and methodical experiments.*

In short: I deem it necessary that now, with iron determination, a 100 percent self-sufficiency be attained in all those fields where it is possible and that in this manner not only the national supply with these most important raw materials will become independent from foreign countries, but that thereby the foreign exchange will be saved which we need in peacetime for the import of our food. *I want to emphasize in this connection that I see in these tasks the possible economic mobilization there is, and not in a limitation of armament industries in peacetime for the purpose of saving and accumulating raw materials for war.* In addition, however, I deem it necessary to conduct at once a reexamination of the outstanding foreign exchange claims of German industry abroad. There is no doubt that the outstanding claims of our industry today are quite enormous. And there is also no doubt that this is to conceal partly the abominable intention to own for all eventualities certain reserves abroad which are thereby removed from internal seizure. I see in it a deliberate sabotage of national preservation or the defense of the Reich, respectively, and I therefore deem necessary the passing of two laws by the Reichstag!

a. A law providing capital punishment for industrial sabotage and,

b. A law making Jewry in its entirety answerable for damage done to German industry and thereby to the German nation by individual members of this criminal group.

The only fulfillment of these tasks in the form of a several years' plan, making our national economy independent of foreign countries, will make it possible to demand sacrifices of the German nation in the field of industry and food. For then the nation has a right to demand of its leadership to which it gives blind recognition, that it tackle these problems also in this field with unheard of and resolute work and does not only talk about them, that it solves them and does not only register them.

Almost four precious years have passed now. There is no doubt that we could be completely independent of foreign countries in

the field of fuel, crude rubber and partly also iron ore supplies. Just as we produce 700,000 or 800,000 tons of gasoline at the present time we could be producing 3 million tons. Just as we produce several thousand tons of rubber we could already be producing 70,000 or 80,000 tons per year. Just as we increased our iron ore production from 2½ million tons to 7 million tons we could process 20 or 25 million tons of German iron ore and if necessary also 30 millions. One has had enough time now to find out what we cannot do. It is now necessary to carry out what we are able to do.

I herewith set the following tasks:

I. The German armed forces must be ready for combat within four years.

II. The German economy must be mobilized for war within four years.

TRANSLATION OF DOCUMENT EC–416*
PROSECUTION EXHIBIT 940

MINUTES OF THE MEETING OF THE MINISTERIAL COUNCIL, 4 SEPTEMBER 1936, AT WHICH GOERING DISCUSSES AND READS HITLER'S MEMORANDUM ON THE FOUR YEAR PLAN

Top Secret

Minutes of Meeting of the Ministerial Council of 4 September 1936, 12 Noon

Chairman: Minister President, General Goering
Reich Minister of War, Field Marshal von Blomberg
Reich Bank President and Acting Reich and Prussian Minister of Economics, Dr. Schacht
Reich Minister of Finance, Count Schwerin von Krosigk
Prussian Minister of Finance, Professor Dr. Popitz
State Secretary, Koerner
Economic Adviser to the Fuehrer, Keppler
Ministerialdirektor State Counsellor, Dr. Neumann
Staff Office Chief of the Reich Peasant Leader, Dr. Reischle
Recorder: Lieutenant Colonel of the General Staff, Loeb

Minister President Goering:

Today's meeting is of greater importance than all previous meetings.

* This document was also introduced in the IMT trial as USA Exhibit 635. The German text appears in Trial of the Major War Criminals, *op. cit.*, Volume XXXVI, pages 488–491.

At the last cabinet meeting of 11 August 1936 it was agreed that supplementary material was needed in order to make it possible to reach a decision.

Meanwhile new trouble has arisen, especially in connection with nonprecious metals and rubber; even the Fuehrer has been drawn into this affair.

In the discussion of 1 September 1936 it was established that any trouble must be avoided before the Party Congress. Privy Councillor Allmers had no authority for the letter in which he speaks of a 2 to 3 day working week for the automobile industry. On 1 September 1936 temporary measures for the period lasting until the middle of October, when a decision will be reached, were ordered and are to be carried through.

In the same meeting special attention was called to our unpaid claims upon foreign countries which are presumably higher yet than the reported claims, thus it is stupid to rack one's brain because of a few million marks. But an examination must be made in order to find out whether the claims reported as bad cannot really be collected.

Existing reserves will have to be touched for the purpose of carrying us over this difficulty until the goal ordered by the Fuehrer has been reached; in case of war they are not a reliable backing in any case.

Certain persons have been asked for memoranda on the basic conduct of the economy. So far only one was presented by Dr. Goerdeler[1] and it is absolutely useless. In addition to many other erroneous thoughts it contains the proposal of considerable limitation of armaments.

In this connection it should be stated that the authority of the General[2] refers to the "insuring of armaments" [Sicherstellung der Ruestung] which must be sped-up rather than slowed down.

The Fuehrer and Reich Chancellor has given a memorandum to the General and the Reich War Minister which represents a general instruction for the execution thereof.[3]

It starts from the basic thought that the conflict with Russia is inevitable. What Russia has done in the field of reconstruction, we too can do.

Just what sort of risk is it, that our industry is afraid of, compared to the risk in the field of foreign affairs which the Fuehrer runs so continuously?

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[1] Goerdeler, former Lord Mayor of Leipzig was sentenced to death by the People's Court (Volksgerichtshof) in connection with the attempt on Hitler's life on 20 July 1944.

[2] This refers to Goering, whose military rank at that time was that of a general.

[3] Document NI-4955, Prosecution Exhibit 939, reproduced immediately above.

The Fuehrer is going to have a memorandum issued concerning the financial angle of this problem.

Research on the problem of increasing exports, for instance, has shown that fundamentally new ways can hardly be found. It will not be possible to create a balance of foreign exchange merely by means of export. The "New Plan" of the Reich Minister of Economics is acceptable in its basic features—but it can be improved in details.

The General reads the memorandum of the Fuehrer.

The General is responsible for the execution of the tasks outlined in the memorandum.

If war should break out tomorrow we would be forced to take measures from which we might possibly still shy away at the present moment. They are, therefore, to be taken.

Two basic principles—

1. We must strive with greatest energy for autonomy in all those fields in which it is technically possible; the annual amount of foreign exchange saving must still surpass that of the first proposal of the raw materials and foreign exchange staff anticipating a saving of 600 million reichsmarks.

2. We have to tide over with foreign exchange in all cases where it seems necessary for armament and food.

In order to provide for foreign exchange, its flow abroad must be avoided by all means; on the other hand, whatever is abroad must be brought in.

The Fuehrer is going to speak very soon to the industrial leaders and expose to them his fundamental thoughts.*

In view of the power of the State the necessary measures can definitely be carried through. Frederick the Great, to whom reference is being made from the most diverse sides, was in his financial attitude a strong inflationist.

Through the genius of the Fuehrer things which were seemingly impossible have become a reality in the shortest time; last example: introduction of the 2-year [compulsory military] service law and recognition on the part of France that we need stronger armed forces than France herself. The tasks now ahead of us are considerably smaller than those which we have already accomplished.

All those measures which can be carried through with internal German money are possible and should be carried out. Through them the requirements of industry and food supply needing foreign exchange must be pushed into the second line.

All measures have to be taken just as if we were actually in the stage of imminent danger of war.

* Both Hitler and Goering spoke to a group of leading industrialists on 17 December 1936. See Document NI-051, Prosecution Exhibit 964, reproduced later in this section.

The execution of the order of the Fuehrer is an absolute command.

(End of meeting: 1300)

PARTIAL TRANSLATION OF KOERNER DOCUMENT 140 KOERNER DEFENSE EXHIBIT 34

EXCERPTS FROM VARIOUS ISSUES OF THE NEWSPAPER "FRANKFURTER ZEITUNG," 9 SEPTEMBER TO 2 DECEMBER 1936, CONCERNING THE PURPOSES OF THE FOUR YEAR PLAN[1]

EXCERPT FROM THE "FRANKFURTER ZEITUNG"—THE "FOUR YEAR PLAN"

RK Nuernberg, 9 September 1936.[2]

The proclamation of the Fuehrer and Reich Chancellor has at once alerted the Party convention and thus the whole of Germany to the significance of the problem which has such a decisive influence not only on the present but also on the future. What are the prerequisites under which this great and growing nation, crowded together on a small area, must work and manage their economy in order to exist and thrive? Many guesses have been made, particularly abroad, as to the slogan under which Adolf Hitler would place this Fourth Party Congress since the seizure of power. They were right, if they had assumed the slogan to be the struggle against bolshevism, but no one had expected that the proclamation which opened up the National Socialist Party Congress would devote so much time to the sphere of economic policies and that it would determine the future course of German economy once and for all. In particular, no one had expected a proclamation of a Four Year Plan for the organization of an industry which would decrease our need for raw material imports. *It cannot be said that the man who had made this decision is a fanatic on the subject of autarchy. Sentence after sentence in the proclamation proves that the exigencies of the times had forced Germany to embark upon this course.*

* * * * * * *

This work, so runs the argument in the proclamation, is the natural consequence of a dilemma, resulting from two basic facts: the fact that Germany (whatever her efforts may be) will never be in a position to feed herself without additional food imports,

[1] The document as offered by the defense was composed of extracts from various articles in this newspaper and only part of the entire document is reproduced here.

[2] The article is datelined "Nuernberg" where Hitler had just announced the "Four Year Plan" at the Party Congress.

and second, the fact that a material increase of German exports to pay for our imports cannot be expected. No one, particularly not our foreign critics, can deny that the first fact is given and that no one can be blamed for it, and that the second fact is a product of circumstances which could very well be otherwise and which indeed will change sometimes—namely, when the present obstacles in the exchange of commodities will be eliminated by economic agreements among the more important countries thus increasing the German share in the international business.

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The argument in the proclamation is as follows: As far as we can judge the situation now, Germany, in order to provide adequate food for its population, must pay for considerable food imports (which will grow in proportion to the growing population and the increased purchasing power). If we cannot materially increase our exports, then we must decrease that part of our imports that permits of a decrease, namely, the import of raw materials. Our own production in colonies and the production of raw materials made possible by virtue of German science and engineering alone enable us to decrease raw material purchases from abroad without harm to German productivity as result of a corresponding throttling of imports.

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To this description of how things really are in Germany and to the expression of hopeful determination was again added a profession of faith in peace. We welcome this, the whole world will welcome it! If they would only reflect upon it a little they would realize the senselessness of their eternal doubts regarding Germany's will to peace. How could any German statesman desire anything else but peace, particularly after the experience of the First World War, when he sees things with such clearness and does not hesitate to say openly that Germany needs the world to get sufficient food to live; and when he adds—This is true for today and is even more so in the future, rather than less. We may work as hard as we please, it will not add anything to Germany's tillable acreage. Adolf Hitler did not pursue the phantom of the complete independence of Germany from the markets of the world, but declared: I know that I need the world to feed my people adequately—only, I do not want to be the slave of this world. The world has taught our German people that it is indispensable to be strong in order not to be abused and suppressed. This is the real solution! Millions will be ready to testify that Rudolf Hess uttered their own true sentiments when he stated in Nuernberg—The name of Adolf Hitler is the best pledge for

peace that Germany is able to give. This is truly so—and we may add—It is not the fault of Germany nor the fault of German policy that the necessity of German power was again and again stressed also in this proclamation. Neither is it his fault that at present he cannot hold out a better prospect concerning the possibility of a decrease in armaments than this. A decrease is only possible in the same proportion as the danger is lessened to which Germany is exposed. There is hardly a German in Nuernberg who is not convinced that the events of this summer have not fully confirmed the National Socialist estimation of the danger coming from Moscow.

EXCERPT FROM THE "FRANKFURTER ZEITUNG"

RK Berlin, 19 October 1936

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The basic sentence of the Four Year Plan reads: "In 4 years, Germany must be absolutely independent from foreign countries in all those materials which we ourselves in any way can procure by means of German capability, by means of our chemistry and machine industry, as well as through our mining industry." The argument is based on two facts—The inevitable necessity of German food-imports and the impossibility of sufficient expansion of German exports within a reasonable length of time. The purpose of the plan is, through savings by economizing in raw material imports to guarantee a sure possibility for the import of food supplies and for buying irreplaceable raw materials.

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Of 30 October 1936

Although to be largely independent from abroad in essential goods is considered as a constituent part of national freedom and sovereignty today not in Germany alone, yet the Four Year Plan represents neither an absolute turning away from international exchange trade nor an autarchy program. Peaceful bartering would be more desirable than to tackle giant investments, the initial difficulties of which one is definitely aware of. This has been clearly emphasized by Minister President Goering. But it takes at least two to barter and if the world cannot make up its mind to concede natural sources of raw materials to Germany or at least to take the necessary steps in the matter of foreign exchange and debts, then Germany will simply have to become entirely self-sufficient and will use every possible effort to go the limit in this direction.

It is regrettable and strange at the same time that foreign countries do not recognize this connection or if they do see it, fail to draw conclusions from it. It is well known that the post-war period reveals a chain of lost opportunities in the economic sphere also.

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What is going on in Germany today is for the rest of the world anything but an experiment the success or failure of which one can look forward to quite calmly. It is an event of greatest importance for the future of world economy and may be able to bring about decisive cultural changes. Perhaps this will be recognized soon, although we hardly expect it any more, after so many experiences were of no avail. The Four Year Plan will be carried out but the pace and the extent of it still depends upon the understanding Germany will find abroad for the needs of her economy.

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Bremen, 12 November 1936

DISCIPLINE IN THE ECONOMY

The Reich Minister of Finance on the Four Year Plan

The Reich Minister for Finance, Count Schwerin von Krosigk, lectured at the Administration Academy here on Reich Finance Politics. After reviewing the finance politics of the last years and the present he said among other things:

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Increased discipline was required because of the Four Year Plan. Just as this plan signifies that we have to be economical and careful with the natural products of our homeland, so Germany's great aims demand economical handling of our foreign exchange and our income according to the budget. The situation which led to this plan, was not brought on by ourselves. In view of the tight-lacing of the world through obstacles in trade and difficulties in foreign exchange, it had likewise become impossible to make up for the losses in capital suffered after the war by engaging in profitable activities of foreign trade and navigation. Germany's losses through tributes exceeded by far the capital loaned to us and the burden of foreign credits still due us which at the time had largely again been deducted for tribute, but now have to be paid back once more, this burden is the greatest obstacle to Germany's reincorporation in the mechanism of world economy. New credits alone would not be able to improve the German Foreign economic situation since—as we know—we ran

into difficulties already with the old credits. If stable conditions in world economy were to be reached, then Germany would have to be given a possibility to use her own credits for the procurement of such raw materials as were still lacking in the country at present; moreover, the other barriers which today were preventing Germany from adjusting domestic prices with foreign prices and from contributing to a permanent revival of the world trade, would have to be removed.

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Munich, 2 December (DNB)

Four Year Plan as "Third Stage." An address by the Reich Minister of Finance

The Reich Minister of Finance, Count Schwerin von Krosigk, in a lecture given in Munich upon the invitation of Minister President Siebert remarked among other things as follows:

* * * * * * *

The Four Year Plan was the third stage on the road to the reestablishment of German independence. It was not a question of establishing an autarchic state for autarchy's sake, but rather to procure the basic essentials for the life of our people in our own strength. The increased demand for raw materials could at present not be met in full through imports because we could not pay in foreign currency. This brought on the necessity of an economic fortification which was forced upon us by the unreasonableness of the foreign countries. On the other hand one had to make sure that Germany's needs in raw materials which the inland could not supply, would be met. Therefore, foreign trade needed to be continued and increased.

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TRANSLATION OF DOCUMENT 2071–PS
PROSECUTION EXHIBIT 936

DECREE ON THE EXECUTION OF THE FOUR YEAR PLAN 18 OCTOBER 1936

1936 REICHSGESETZBLATT, PART I, PAGE 887

The realization of the new Four Year Plan as proclaimed by me at the Party Congress of Honor [Parteitag der Ehre] requires a uniform direction of all powers of the German nation and the rigid embodiment of all pertinent authorities within Party and State.

I convey the execution of the Four Year Plan to Minister President, General Goering.

Minister President, General Goering will take the necessary measures for the fulfillment of the task given to him and, in this respect, has authority to issue legal decrees and general administrative regulations. He is authorized to hear and to provide with instructions all authorities, including the Supreme Authorities of the Reich, and all agencies of the Party, its formations and affiliated organizations.

Berchtesgaden, 18 October 1936

The Fuehrer and Reich Chancellor

ADOLF HITLER

PARTIAL TRANSLATION OF DOCUMENT NG-1221
PROSECUTION EXHIBIT 460

GOERING'S DECREE ON THE EXECUTION OF THE FOUR YEAR PLAN, 22 OCTOBER 1936, ESTABLISHING A MINISTERIAL COUNCIL, APPOINTING DEFENDANT KOERNER AS GOERING'S REPRESENTATIVE FOR ALL CURRENT BUSINESS, SETTING FORTH THE RESPONSIBILITIES OF DIVISIONS AND AGENCIES, AND RELATED MATTERS

Copy W I Gen. 7983/36

Minister President, General Goering, Berlin, 22 October 1936
Plenipotentiary for the Four Year Plan
St.M.Dev. 265

Decree on the Execution of the Four Year Plan

I

The Fuehrer and Reich Chancellor has entrusted me with the execution of the new Four Year Plan, which was proclaimed by him at the Party Congress of Honor. I shall carry out the order in spite of all possible obstacles and difficulties. I am responsible to the Fuehrer and Reich Chancellor for the success of the plan as a whole. In the same way the persons whom I invite to be my collaborators will have full responsibility for the field of work of which they are in charge. Only earnest devotion to duty and the readiness of all concerned to cooperate will make it possible to attain the aim that has been set to us.

I shall deal with my task as far as possible *with the help of the competent agencies, whose responsibility remains unaltered.* We shall set up new agencies only as far as this is absolutely necessary. All persons and organizations of the Party and of the State participating in the Four Year Plan have to obey *my instructions.*

I shall exercise my functions under the official designation—

"Minister President, General Goering,
Plenipotentiary for the Four Year Plan."

II

For fundamental decisions I contemplate the collaboration of a ministerial committee (Small Ministerial Council) [Ministerausschuss (kleiner Ministerrat)], of which the following persons will be members:

1. The Reich Miinster of War
2. The Reich Minister of Finance
3. The Reich Minister of Economics
4. The Reich Minister of Food and Agriculture
5. The Prussian Minister of Finance
6. Reich Minister Kerrl*
7. The State Secretary and Chief of the Reich Chancellery
8. Dr. Ing. Keppler as general expert for the procurement of German raw and synthetic materials

I reserve the right to call in further ministers and to hear experts in the small Ministerial Council.

Furthermore my representative in current business (III) and the chiefs of the sections mentioned under IV will regularly participate in the meetings of the small Council of Ministers.

III

In all current business concerning the Four Year Plan, I shall be represented by State Secretary Koerner.

Ministerialrat Marotzke will be personal Referent of the State Secretary.

IV

Activities will be divided into the following groups:

1. Production of German raw materials and synthetic materials [Roh- und Werkstoffe]
2. Distribution of raw materials
3. Allocation of labor
4. Agricultural production, as far as it is connected with the Four Year Plan
5. Price administration
6. Foreign exchange

* Hans Kerrl, Reich Minister for Church Affairs. Not to be confused with the defendant Hans Kehrl. At this time Reich Minister Kerrl was also in charge of the Reich Office for Regional Planning (Reichstelle fuer Raumordnung), the office in charge of controlling the physical location of public agencies and buildings.

All matters connected with the Press will be uniformly handled for all groups by Ministerialdirigent Dr. Gritzbach as Chief of my Press Bureau.

V

The business of the group "Production of German raw materials and synthetic materials" will be handled—

a. By the office for German Raw Materials and Synthetic Materials. Its task will be—

(1) To increase the production of German industrial raw materials [industrielle Rohstoffe].

(2) To plan and carry out the production of German synthetic materials with the exception of those mentioned under *b*.

The Reich Office for Regional Planning [Reichsstelle fuer Raumordnung] must take part in the selection of locations for production.

(3) The promotion of the research tasks necessary for the foregoing purposes.

(4) Mineral oil economy including the rationing of imported materials or other materials produced outside the Four Year Plan.

Lieutenant Colonel Loeb, of the General Staff, will be Chief of Office.

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan, *Office for German Raw Materials and Synthetic Materials.**

* Underlined [italicized] words to be printed in red.

The financial questions of the reconstruction program will be handled in conjunction with the Reich Ministry of Finance and the Reich Ministry of Economics.

b. Dr. Ing. Keppler

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan

Division Industrial Fats

He is in charge of planning and carrying out the manufacture of industrial fats.

The financial questions of the reconstruction program will be handled in conjunction with the Reich Ministry of Finance and the Reich Ministry of Economics.

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VI

The *distribution* of raw materials will be handled by Minister President Koehler of Baden in his capacity of Commissioner for the Distribution of Raw Material in conjunction with the Reich Ministry of Economics and the Reich Office of Foreign Exchange (while remaining in charge of his duties in the State of Baden).

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan

Division Distribution of Raw Material

Minister President Koehler is responsible to me for correct distribution of raw materials among the various consumers, paying due regard to their urgency, and for corresponding action of the competent government departments and with the agencies set up by me to carry out special transactions to procure foreign raw materials; he will also deal with all questions connected with import of foreign raw materials.

[Initial] W

VII

Ministerialdirektor Dr. Mansfeld will be in charge of the allocation of labor as Commissioner for Labor Allocation in conjunction with the Reich Ministry of Labor (while remaining in charge of his duties in the Reich Ministry of Labor).

Also President Dr. Syrup (while remaining in charge in the Reich Institute [for Employment and Unemployment Insurance]).

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan

Division Labor Allocation

VIII

Agricultural production connected with the Four Year Plan will be dealt with by State Secretary Backe (while remaining in charge of his duties in the Reich Ministry of Food and Agriculture).

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan

Division Food

IX

Oberpraesident and Gauleiter Wagner will be in charge of *Price Administration* subject to the law to be issued (while remaining in charge of his present duties).

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan
Reich Commissioner for Price Administration

X

Foreign Exchange matters will be dealt with by Ministerialdirektor, State Counsellor Neumann. Furthermore he will handle all business of a general character, he will see to it that adequate liaison is maintained between the single sections and will cooperate in the issue of laws and decrees.
[Initial] W
Ministerialrat Gramsch will be at his disposal.

DESIGNATION:

Minister President, General Goering, Plenipotentiary for the Four Year Plan
Division Foreign Exchange

XI

The chiefs of the sections named under IV will cooperate closely. If necessary, they will combine for joint consultation—calling in general expert Dr. Ing. Keppler whenever the case demands it. They are free to use specialist experts.

The Commissioners for the Allocation of Raw Materials and for Labor Allocation more particularly keep in close touch with the Chief of the Office for German Raw Materials and Synthetic Materials where the tasks of his field of business are concerned, and with Dr. Keppler for the tasks assigned to him in accordance with V *b*. The Chief of the Office for German Raw Materials and Synthetic Materials is solely responsible for the practical execution of the raw and synthetic materials program as far as available funds, raw materials and labor permit, with the exception of the field of industrial fats, for which Dr. Ing. Keppler is alone responsible. Differences of opinion are subject to my final decision.

XII

All matters of all Sections pertaining to the budgetary laws will be dealt with in the [Prussian] State Ministry (Oberregierungsrat Legler).

The Finance Office of the State Ministry will be the fiscal office for the administrative needs of all sections.

XIII

Lieutenant Colonel of the General Staff Loeb will submit to me not later than on the 26th inst. the plan for the structure and

personnel of the Office for German Raw Materials and Synthetic Materials. Before the same date the other chiefs of the sections named under IV will indicate what coworkers they want to engage for the individual branches of their sections.

GOERING

To—

a. State Secretary Koerner
b. Minister President Koehler
c. Oberpraesident Wagner
d. State Secretary Backe
e. Dr. Ing. Keppler
f. Ministerialdirektor Dr. Mansfeld
g. President Syrup
h. Lieutenant Colonel Loeb
i. State Councillor Neumann

PARTIAL TRANSLATION OF DOCUMENT EC–373 PROSECUTION EXHIBIT 942

EXTRACTS FROM A SPEECH BY GENERAL THOMAS, CHIEF OF THE MILITARY ECONOMIC STAFF OF THE ARMED FORCES, TO THE REICH CHAMBER OF LABOR, 24 NOVEMBER 1936, CONCERNING MILITARY ECONOMY AND THE FOUR YEAR PLAN

Chief of the Military Economic Staff
of the Office Armed Forces

Berlin, W 35, 24 November 1936
Bendlerstrasse 27
Telephone: Local calls Combined Number
Long distance calls B1 Kurfuerst 81 91

Speech delivered on 24 November 1936 before the Reich Chamber of Labor

I have for two reasons acceded with particular pleasure to the wish of Dr. Ley that I address the Reich Chamber of Labor on Military Economy:

1. The *Reich War Minister* is particularly concerned that, especially in your circle, the fundamentals of Military Economy should be known and that you should acquire a picture of how the *soldier* views the connection between Wehrmacht and economy.

2. I, *as Chief* of the Military Economic Staff desire to explain to you what tasks the *German Labor Front* has to fulfill in military economy, having pointed out in an article in the Wehrmacht number of the Leipziger Illustrierten Zeitung ["Leipzig Illus-

trated News"], which will appear within the next few days, that the German Labor Front has great tasks in this connection.

The concept of military economy is a coinage of recent years and has lately been introduced into *many countries.* I do not think, however, that in any State its meaning is so clearly and comprehensively perceived as here in Germany. To bring these thoughts before you and to explain them is the object of this lecture, and I shall give you these explanations by providing answers to the *following four questions* in the course of the lecture:

(1) From what *conceptions* did military economy develop?
(2) *What do we understand by military economy?*
(3) Why is this military economy especially necessary *for Germany?*
(4) What *tasks* and what *demands* does military economy impose in particular on the *German Labor Front?*

I shall begin with the *first question*—From what conceptions did military economy develop?

There are two *fundamental points* which have forced upon us the idea of military economy:

a. The *experiences of the Great War,* combined with the effects of the Versailles Peace Treaty.

b. The *view of national socialism* on the *duties of the individual and the public towards the State.*

Allow me to make some remarks on these two points.

Each of us who served at the front during the great World War returned home with *two* ineffaceable and unforgettable *impressions*:

1. With an appreciation of the splendid manner in which the military mobilization organization of the General Staff functioned at that time and a *still greater admiration* for the *courage* of the German soldier, who, whether young recruit or old reservist, heroically stood his ground in East or West or wherever he was placed.

This *happy* memory has, however, a *sad* counterpart, namely, the *breakdown* in the spiritual and material care of the fighting army and of the homeland as a consequence of the *inadequate military-economic preparation* of the German people for this great international struggle. Think back to the *enthusiasm* of the people at the outbreak of war, to the splendid *manner in which mobilization was accomplished,* to the smooth efficiency with which the troops were marshalled, to the fine performances of our regiments during the *advance,* remember the courage of the *young regiments* at *Langemark,* the tough and heroic *tenacity*

in trench warfare, and the enthusiasm, when the order came: "Over the top again for a break-through offensive" and *in spite of all that—the war was lost.*

The *battles* were won, but the *outcome* of the war was defeat, and why? Just because the *military-economic preparation,* which is necessary for a modern war and which gives support to the fighting army, was insufficient or was totally neglected. We can assert indisputably that in the last count, it *was not the material* of the *Allies* that won the war, but that the *German soldier* emerged as unacclaimed victor from the material battles. His victories were *nullified,* however, because all the measures, which we today group under the heading of military economy, were not recognized by the government of that time, or were introduced too late.

Let us also think back here to the *development* or the individual *phases* which led to the unhappy end, to the *munitions crisis* of the winter of 1914, to the initial *food difficulties* of the winter of 1915, to the *turnip winter* [*Kohlruebenwinter*] *of 1916,* to the increasing scarcity of rubber and gasoline, let us recollect that the then War Ministry, had, because of the lack of steel, to decide *between* tanks *and* munitions *and* that many military undertakings had to be carried out in order to increase our sources of *foodstuffs* and *raw materials.*

And finally, let us remember the *spiritual* collapse, which was induced by the shortages of foodstuffs and which finally led to the *madness of the Revolt of 1918.*

All this shows us a *logical development* and a *proof* that there was then missing what we today call military-economic preparation.

* * * * * * *

I have defined military economy in broad outline, and am now going to state briefly what the problems are which it will have to solve. They may be summarized under three headings—

1. Direction of peacetime economy according to military economic principles
2. Preparation of war economy
3. Preparation of economic warfare

I do not propose today to go into these three points in detail, but I should like to state that these problems have to be examined from every aspect of human life, for example, the food situation, raw materials, industry, finance, trade and transport, labor utilization, propaganda, and many other aspects.

All these questions crop up again and again in the three problems I have mentioned. For a successful solution, central direction is necessary.

These short explanations will be sufficient to prove the all-embracing character of military economy.

Gentlemen, we now come to the third question—Why is military economy so particularly important for Germany?

Before we examine Germany's situation in detail, let us look for a minute at the present world situation. What do we see?

The hope one could perhaps cherish in the past, that the political tension between the nations would relax in future by way of an economic reconciliation—that hope has disappeared.

If we look at the world we see that side by side with the political tension, the economic tension has increased. On the one side there are countries with gigantic natural sources of raw materials and stocks, and on the other side countries entirely lacking in raw materials. Some countries have enormous gold stocks, while others are expending their last gold reserves in order to purchase urgently needed foodstuffs; in one country the arable area is so small that it is quite impossible to feed the population on the products of its own soil, while others can feed the population of a whole continent. Vast colonies belonging to one nation—absolute dearth of space of another. One country is a debtor to many others, another country is the creditor of almost all the others.

* * * * * * *

Neither great mountain ranges, nor wide rivers, nor a Maginot Line protect the German borderlands from sudden military attack.

The heart of Germany is well within range of the air forces of the neighboring countries. Germany has no outlet to any of the five oceans and can quickly and easily be cut off from oversea supplies. Germany is too thickly populated and unable fully to feed her population from the products of her own soil. Our natural sources of raw materials are, to a great extent situated in the borderlands; we lack many war-essential raw materials. Nor do we possess colonies, nor have we hoarded stocks of gold. But in spite of that, we have got to be prepared. Prepared—by pursuing a sound military economy and by making good, by diligence and energy, by the organization and the moral strengthening of our people, and by materially increasing our war-economic power, all that which has been denied to us owing to the geo-political situation of Germany in the world.

Some time ago I was asked by a foreign military attaché—Why do you indulge in the luxury of the Four Year Plan and why do you rush headlong into these unnecessary expenses? I was able to reply briefly and to the point—Because you force us to do so,

and don't want to give us what you possess in your country, and what every country needs to preserve its place in the world.

Gentlemen, the Four Year Plan is military economy at its purest.

Let us rejoice and be thankful that the Fuehrer is making use of the well-tried energy and capacity for hard work of General Goering to close this gap in our military economy. Let us confess openly and honestly that Germany's military economic position is not ideal. Nor must we underestimate the difficulties which arise from this fact. But it is this knowledge which compels us, more than any other country, to apply military economy and make our dispositions accordingly. It is every soldier's duty to face unfllinchingly all dangers and to act quickly and energetically. And if they don't want to sell copper to us, then we will make our ammunition and manufacture our equipment from other materials. German technicians and German chemists will eventually succeed in producing economically fuel and rubber from German coal. And if need be, we shall tighten our belts as well. The task of our organization will be to shape and direct German industry in such a way that it can provide us with the same advantages as other countries possess, for example England and the United States, because of their secure military position, and without their having done anything to attain them.

I am glad to state that the organizations of industrialists as well as those of traders and craftsmen have assured us of their collaboration towards this aim, and have already achieved satisfactory results.

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PARTIAL TRANSLATION OF DOCUMENT 2353–PS
PROSECUTION EXHIBIT 941

EXTRACTS FROM THE MANUSCRIPT OF GENERAL GEORG THOMAS ENTITLED "BASIC FACTS FOR A HISTORY OF THE GERMAN MILITARY AND ARMAMENTS ECONOMY," CONCERNING EARLY DEVELOPMENTS OF MILITARY ECONOMY AND THE FOUR YEAR PLAN*

BASIC FACTS FOR A HISTORY OF THE GERMAN WAR AND ARMAMENTS ECONOMY

* * * * * * *

In the initial stages of rearmament, the raw material requirements for the supply of the branches of the Wehrmacht could be fully satisfied. It soon became clear, however, that the necessity of giving an initial impulse to industry and the completion of the various big government projects connected with that necessity demanded so great a quantity of raw materials that the raw material requirements of the Wehrmacht could no longer be fully covered. Therefore, the Military Economic Staff [Wehrwirtschaftsstab] started on an exact calculation of the raw material requirements for the supply program and undertook, in collaboration with the Reich Ministry of Economics, the calculation of raw material deliveries which could be made each year. Both results were arranged in easily understandable charts and submitted regularly to the inner government circle. During this work which proved of great importance for the progress of armaments it was soon realized that the supply of raw materials would have to be rationed, and also that extensive measures would have to be taken to ensure a wider basis for the supply of raw materials.

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XII. *Cooperation with the Four Year Plan*

The formulation of a Several Years Plan had first been suggested, as early as the winter of 1933–34, by the former Chief of Staff of the Army Ordnance Office, Lieutenant Colonel Thomas, who, in a memorandum to the Reich Minister of War, explained the reasons for the indispensability of planning in all armament matters and proposed the formulation of a Five Year Plan—

a. To carry out the requirement projects of the three Wehrmacht branches within the rearmament plan;

* The Thomas manuscript was completed in the latter part of 1944. An affidavit concerning it was executed by General Thomas on 13 November 1945. Further extracts are reproduced as Document 2353–PS, Prosecution Exhibit 1049, in section VI H, this volume. More extensive extracts from the Thomas manuscript were introduced in evidence as Document 2353–PS, Prosecution Exhibit 443, in the I.G. Farben Case (United States *vs.* Carl Krauch, et al., case 6, vols. VII and VIII, this series). Parts of the German text of Thomas' manuscript appear in *Trial of the Major War Criminals, op. cit.*, volume XXX, pages 259–280.

b. To build up systematically food and raw material production as the foundation for the defense of the Reich.
(Unfortunately, this memorandum can no longer be found.) The memorandum had been submitted, at that time, to the Fuehrer by the Reich Minister for War.

* * * * * * *

It was the Staff for Raw Materials and Foreign Currency which laid the foundations for the subsequent work of the Four Year Plan.

The planning ordered by Minister President Goering was concerned primarily with procuring foreign currency for financing rearmament as well as with clarifying the raw materials situation in order to safeguard the progress of armament production. The main problem for both tasks was the procurement of further amounts of foreign currency. There were considerable differences of opinion about the method to be employed to this end between the Minister President and [Reich Bank] President Dr. Schacht. A report of the Conference of Ministers of 12 May 1936 on this question is attached as appendix XII, 6. These conferences led to the conclusion that exports had to be increased considerably in order to make further amounts of foreign currency available for the purchase of raw materials, and that the Reich Minister of Food had to be forced to secure the food for the German people without using, as up to present, considerable amounts of foreign currency.

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The great significance of the work of the Four Year Plan for armaments production led to close collaboration between the departments of the Four Year Plan and the WStb. The scope of the problems to be solved was increasing steadily so that soon an Office for German Raw Materials and Synthetic Materials under the direction of Colonel Loeb was built up from the Staff for Raw Materials and Foreign Exchange, and encompassed the following departments:

1 Department—Over-all Planning and Statistics
Chief: Major Dr. Czimatis
1 Department—Mineral Oils
Chief: Major von Heemskerck
1 Department—Research and Development
Chief: Dr. Krauch
1 Department—Finance
Chief: President Lange

And the main special sections [Hauptreferate]—

Iron and Metals	under Mr. Pleiger
Textiles	under Mr. Kehrl
Lumber	under Forestry Commissioner von Homloy
Chemistry and Rubber	under Dr. Eckell
Gunpowders and Explosives	under Major Wimmer

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TRANSLATION OF DOCUMENT NID–13628
PROSECUTION EXHIBIT 2168

LETTER FROM DEFENDANT KOERNER TO THE REICH MINISTERS, 10 DECEMBER 1936, REQUESTING OPPORTUNITY TO COMMENT ON DRAFTS OF PROPOSED LAWS AND DECREES INVOLVING THE FOUR YEAR PLAN

Copy for Amtsrat Schroeder I

Minister President, General Goering,
Plenipotentiary for the Four Year Plan.

State Ministry Foreign Exchange 1353

Berlin, 10 December 1936
W 8, Leipziger Strasse 3

In order to make certain of the fact that the drafts of laws and decrees, drawn up by the individual departments, involving directly or indirectly the task to be carried out by the Four Year Plan, actually are in line with the program of the Four Year Plan, I request to be given an opportunity to comment upon the drafts of the subdepartment chiefs after they have been drawn up, but before their introduction in and enactment by the Reich Cabinet.

As Deputy:
Signed: KOERNER

To the Reich Ministers:

I am forwarding this copy for your official notice. I shall forward the incoming drafts of the departments to the administrative branches involved as soon as possible and request that

this matter be given preferred treatment in order to avoid any delays in this respect.

As Deputy:
Signed: KOERNER

[Seal] Prussian State Ministry Chancellery
Certified true copy:
[Illegible signature]
Administrative Assistant

To the Directors of the Administrative Branches.

TRANSLATION OF DOCUMENT NI-051
PROSECUTION EXHIBIT 964

REPORT ON GOERING'S SPEECH BEFORE LEADING INDUSTRIALISTS AT THE "PREUSSENHAUS," 17 DECEMBER 1936, CONCERNING THE EXECUTION OF THE FOUR YEAR PLAN[1]

Minister President General Goering on the Execution of the Four Year Plan

THE SPEECH IN THE BIG ASSEMBLY HALL OF THE "PREUSSENHAUS" ON 17 DECEMBER 1936[2]

After a short survey of world politics and the dangers of bolshevism and the world revolution, Goering said among other things:

The old *laws of economics* have no longer their former value. In economics there are no laws of nature, but only those made by man. These are *interpretations* by man adapted to special circumstances. We see today the realization of things which only a few years ago appeared to be Utopia.

We must let the *worker* participate in the wealth of ideas, since we are not in a position to raise, within a short time, his material position to a desirable high level. The wages are not yet as high as we would like them to be. It is clear that the *propaganda* of the past decades is still having its effect on the German worker. Not only can Marxist methods be sometimes attributed to the German Labor Front; there are also employers who still make use of capitalistic methods.

As far as the economics area of the Four Year Plan is con-

[1] This report was obtained from the files of Reichert, Manager of Economic Group—Iron-producing Industry. Reichert appeared as a defense witness in the Flick Case, volume VI, this series.

[2] In an affidavit (NI-5955, Pros. Ex. 965), the defendant Koerner stated that about 100 of the leaders of German industry were present for this address and immediately after Goering concluded his speech, Adolf Hitler addressed the assemblage.

cerned, it is necessary to remember the serious effect of the blockade against which we could not use sufficient countermeasures. Wise men of the business world declared before the war, when contributions for armaments were argued about, that the economy could bear 1.2 but not 1.4 billion. The check [Wechsel] for insufficient preparations for war was presented on the battlefields.

In the World War 160 billion marks were mobilized. Today we have the same difficult situation as then.

The stability of our currency is unquestioned. The German people will not be exposed to the horrors of inflation a second time.

Two difficulties are in the way of *rearmament*—

(1) The supply of raw material and foodstuffs

(2) The shortage of labor

We must create *reserves* of food supplies and raw materials, just as the Prussian King did in the Seven Years' War. The daily bread must be absolutely guaranteed. It is more important than guns and grenades. I have the complete confidence of the Fuehrer and a far-reaching power of decision. I am master of the *German money;* but I am sorry to say not of the foreign currency. Here my work must begin.

Then Goering read out what the General Council on German Raw Materials and Synthetic Materials had reported. Here it says among other things—complete utilization of the forces of the individual employers. Private initiative. Business should make suggestions.

Concerning exports he mentioned reports according to which the export was often made impossible by the existing regulations. He had said repeatedly that if there was a chance of doing a valuable export business one must circumvent every regulation so as to guarantee the business. (Laughter.) He who risks a lot must also have a corresponding gain. But in this the fundamental interest must be decisive and discipline must be kept. Business, especially export, cannot be rigidly treated. Here one cannot always work according to set laws. If somebody can bring me 10 carloads of copper for which, however, he must pay 40 percent higher than the world market price, he should do it.

Then Goering spoke about questions of exchange of experiences in factories, about *education of young workers.* With regard to the education of apprentices far too little is done. Also the education of specialists and the reeducation must be seen to. Then he again referred to the importance of exports. If the introduction of export orders in the course of production is necessary and if thereby a delay of Four Year Plan or armament contracts re-

sulted from it, then the competent offices must be informed in good time. It is quite possible that army contracts and contracts for the Four Year Plan clash with export orders. Attention is drawn to the *degree of priority* [Dringlichkeitsrangordnung].

When it was suggested to me that *building* should be restricted and private building be forbidden I did not give my consent. To forbid, means to intercede in favor of bureaucracy doing everything. That would be nonsense. I am against such prohibitions. Should urgent constructions be necessary somewhere, then the Gauleiter are responsible to me that workers and material are available in sufficient quantity. I will issue scales of priority, which will be treated in a different way in each district.

Goering again began to speak on *export questions* and declared not all export orders are of the same importance and bring in all that we need. Therefore, there is no absolute priority of exports over home orders but also here a sliding scale of priority must be set up. It is possible that an export order has priority, another time an army—or Four Year Plan order may be more important. One may refer to the government [Amt] about this matter. These things must be treated in an elastic way.

When thereupon a certain amount of murmuring arose, Goering continued: You, Gentlemen, must decide yourselves what is more important.

The raw materials industry must achieve greater capacity, must increase its *productive ability.*

Then I always hear objections, such as—What is to happen to my investment, once the rearmament is finished? Gentlemen, inasmuch as we would have to increase our capacity in order to be prepared for any eventuality—that we cannot do in any case. Whatever happens our capacity will be far too small. The struggle which we are approaching demands a colossal measure of productive ability. No end of the rearmament is in sight. The only deciding point in this case is: victory or destruction. If we win, then the economy will be sufficiently compensated. Profits cannot be considered here according to bookkeepers' accounts but only according to the necessities of policy. Calculations must not be made as to the cost. I demand that you do all to prove that part of the national wealth is entrusted to you. It is entirely immaterial whether in every case new investments can be written off. We are now playing for the highest stake. What would pay better than the orders for rearmament?

With regard to *obtaining raw materials in our own country,* I want you to give orders to your engineers, so that all foreign raw materials should be—as far as possible—replaced by materials produced in our own country. The industry must also be in

the forefront in setting an example in the collection of scrap. The utilization of *German mineral wealth* is a vital question of importance. He who knows of any iron-ore deposits or of other deposits and does not report about it, commits an act of treason. How much our neighboring countries were able to extract from their own soil! We find in the history of our country that in the past the German soil produced far more raw materials of the greatest variety. This has stopped, for many reasons, be it for lack of transportation or owing to competitive prices on the world market, which are lower than the costs in our own country. I gave orders to consult old books. The State Institute for Geology and other institutes have been entrusted with geophysical investigations. They work day and night. Every percent of raw materials obtained from *our own country* is important. Imagine only that we would no longer obtain any Swedish iron-ore, if it should fall into Jewish hands!

I want to create Reich depots of foreign ores. I am willing to negotiate with foreign suppliers and suggest contracts, 10- even 20-year contracts. I am prepared to give long term guarantees. We cannot produce in our own country as much *ore* as we need. The transaction must not fail on account of the price. The decisive factor is that raw materials will be obtained.

Gentlemen, do not think that I do not know all the contracts you have concluded. I have a good intelligence service. I know where bargaining for one cent per ton one way or another takes place. Secure the raw materials for yourself even at a loss. I am prepared to help. Any quantity is worthwhile.

I was informed by a big company that it owned 5,300 privileged *rights in iron-ore mines,* but it was of the opinion that the utilization of these deposits should be postponed in favor of other, better and bigger deposits. This is madness. If anyone cannot decide himself on the exploitation of mines, he must sell this property, so that other people can do so. In general, act like a truffle pig [Trueffelschwein] that digs its snout into everything and finds valuable precious things. (Great hilarity.) I do not accept the objection that two blast-furnaces, instead of one, are necessary for the smelting of our own ores. We are here concerned with the *welfare* of the whole German nation and not with the welfare of one individual enterprise.

For centuries we lived in Germany on German iron. I will order companies founded in order to promote examination of the soil. Every week I shall have reports submitted to me about the new openings. If it should happen that ore shipments fail to arrive, the plants must not be shut down. Therefore we must dig into the German earth promptly. I appeal to patriotism and common sense.

Then Goering spoke of the *production of mineral oils* and the great worries he has with regard to the *procuring of rubber.* When he took office he had taken care that the automobile manufacturers received sufficient material that we could produce normally again. "I took guilder and pound sterling loans. I knelt before foreigners. I take the Four Year Plan damned seriously."

Later Minister President Goering spoke of the German timber industry and of the increased cutting within the country, also of agriculture and the necessity of reducing the price of fertilizer.

Then he came to speak of the technical equipment in the coal mines. Previously seams had been prepared for 5 years and today for 2 years. In his opinion, as many possibilities of preparation as possible must be made. Coal will have to be used for as many purposes as imaginable, even as substitute for firewood, so that a rush for coal must be expected.

Later on *building* was again discussed. In the construction of buildings, iron must be saved. Steel skeleton buildings, perhaps for office buildings, cannot be countenanced any more. Nonferrous metals have to be saved also. The production of aluminum must be strongly accelerated.

As to export, he said, as far as feasible, possibilities must be exploited. The large firms could not afford any more to reduce their quoted prices during the negotiations by 30, 40, 50 and even 60 percent as was done occasionally. The price reductions made a bad impression, as one can see that a fair quotation was not intended in the first place. He shall give preference in *raw material allotments* to those firms which promote their export business.

As to the *wage question,* it was said, the aim of the Price Formation Commissioner [Preisbildungskommissar] is: stable wages, stable prices. It must not be possible to discharge workers without his approval. He intends to issue a decree to forbid it. But where more work than up to now has to be performed, it must be done. Principally later on he wants to pay the Sunday worker just the same as the civil service officer and the [civil service] employee. But at present he does not expect any firm to make an exception. At present Sunday must not yet be paid.

He protested against the senseless taking away [hiring workers from other enterprises] of skilled workers. This was especially impossible where a shop was placed on the priority list. He intends to fetch workers' families from the Sudetenland, approximately 100,000. But they must not be dismissed again.

The workers should work longer hours where it is urgently necessary and for that they should make more money. If France, because of her 40-hour week is in danger of losing her ability to compete, we must now more than ever increase our export.

He wants to permit again *female labor* because the day will come when the female workers will be urgently needed. The necessary machines should be sent to rural areas [for display] so that the women could be won for the machine work.

As to the *procuring of foreign exchange* he stated that every possibility must be utilized to obtain credits abroad. There is a duty to obtain as many long term foreign loans as possible.

Then he came to speak of reducing the production of iron and declared: I shall not adhere to the reduction of 10–15 percent if German-French companies in Germany manage foundries and if, through the connections with the French, it should be possible to import more iron ore.

Foreign exchange must be saved in general, while the import and export must be conducted not through foreign ports but through the German ones.

Then followed reports on *Power Economy.* Every hamlet and every town would eventually have to utilize local water power, because in case of the destruction of large works by a bomb it should be possible to combine together smaller works. On the question of supplying gas over long distances, he mentioned that large factories depend on the use of gas. The existing small gas works must not however be eliminated. Here too the combining together and the highest level of production must be considered as in the question of supplying electricity.

As far as the relations to the *Reich Ministry of Economics* are concerned, this Ministry continues to carry full responsibility. He has called in only a few experts. They gave the Reich Ministry of Economics necessary advice.

In closing, Goering demanded unlimited efforts of all factors in the whole economic field. All selfish interests must be put aside. Our whole nation is at stake. We live in a time when the final disputes are in sight. We are already on the threshold of mobilization and are at war, only the guns are not yet being fired.

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KOERNER DOCUMENT 141
KOERNER DEFENSE EXHIBIT 33

EXCERPT FROM AN EDITORIAL IN THE LONDON TIMES, 19 DECEMBER 1936

Germany under "D.O.R.A."*

Almost every day brings new evidence that the German people are in for a hard winter. Butter and margarine are being tightly rationed. Meat supplies are short—though, fortunately for the housewives, a rigorous control is being kept on the prices both of butchers' meat and of game of every kind. Fresh eggs tend to be scarce from week to week. Worst of all, there are now fears that, after a harvest which farmers would call only middling, the available supplies of wheat and rye will not see the people and their livestock through the months that lie ahead before the next harvest. The farmers are being blamed, as the Russian peasants were blamed during the years 1928–1931, for not giving up the full quota of grain scheduled by the Government; but the attitude of the farmers, no matter how cautious they are, forms only a very small part of the national food problem—a problem which has steadily become more acute, until now the German Government is faced with two immediate alternatives. Either they must ask the people to tighten their belts still further (and possibly even to slaughter some of the young farmstock), or, failing a fresh loan from abroad, they must buy food outside the country with some of the credit now given over to the purchase of raw industrial supplies. "Guns instead of butter" was General Goering's watchword a few weeks ago. It is now in danger of being "Guns instead of bread."

* "D.O.R.A." is the abbreviation for the "Defense of the Realm Act" enacted in Great Britain at the outbreak of the First World War. The analogy here refers to Germany's introduction of food rationing in 1936.

PARTIAL TRANSLATION OF DOCUMENT NI-09
PROSECUTION EXHIBIT 96b

EXTRACTS FROM THE MINUTES OF A DISCUSSION OF THE WORK GROUP ON IRON AND STEEL PRODUCTION, 17 MARCH 1937, UNDER THE CHAIRMANSHIP OF GOERING AND ATTENDED BY DEFENDANTS KOERNER, KEPPLER AND PLEIGER, AMONG OTHERS

R/Br. Strictly Confidential

THE WORK GROUP [ARBEITSKREIS] BEFORE MINISTER PRESIDENT, GENERAL GOERING, THE PLENIPOTENTIARY FOR THE FOUR YEAR PLAN

Minutes of the Conference of 17 March 1937

Under the chairmanship of the Minister President, the following gentlemen were present:

Members of his immediate staff:
Ministerialrat Gramsch
State Secretary Koerner
Ministerialrat Marotzke
State Councillor Neumann

Members of the Reich Ministry of Economics:
Reichsbank President Dr. Schacht
Reichsbankdirektor Blessing
Senior Government Councillor Dr. Kiegel
Oberberghauptmann Schlattmann
Ministerialdirektor Sarnow

Members of the Office for German Raw Materials and Synthetic Materials:
Major Czimatis
Keppler
Dr. Kraemer
Colonel Loeb
Paul Pleiger

Members of Reich Commissioner for Distribution of Raw Materials:
Minister President Koehler
Reichsbahnoberrat Solveen

Member of the Reich Institute for Employment [and Unemployment Insurance]:
President Dr. Syrup

Member of the Reich Ministry of Transportation:
Ministerialrat Niemack

Member of the Control Office [Ueberwachungsstelle] for Iron and Steel:

Dr. Scheer-Hennings

Members of the Working Group: Iron-Producing Industry:

Director Bergmann
Privy Councillor Beehringer
Dr. Bulle
Professor Goerens
President Hecker
Dr. O. Petersen
Dr. Ernst Poensgen
Director Rohne
Dr. Reichert
Bergassessor Sohl
Kommerzienrat Hermann Roechling*
Dr. A. Voegler
Dr. Wenzel

Beginning of the Conference: about 4 o'clock.
End of the Conference: 8:30.

Goering opened the discussion. It may well be the most important session concerning the Four Year Plan, dealing with questions of the iron and steel production, its output capacity, supply of raw materials and iron distribution. Primarily involved is German ore procurement. Here, three aspects must be observed:

1. Present supply from the various native and foreign sources;
2. Supply which may be anticipated at present and in the A-case in the immediate future;
3. Supply from native German soil to which in A-case receipts from Austria with all her possibilities are to be added.

On the other hand, Austrian deliveries during times of peace are not to be considered as domestic deliveries.

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(Goering continues) Also in *Austria* there are still many deposits which must be taken care of. Recently he had spoken about *Brazil.* One should avoid lengthy reflections as to what extent foreign ore can be made to conform with German foundry capacity or to what extent cost demands react unfavorably. Price increases, brought about by purchases dictated by fear and by stock-piling, are most regrettable. It is unpredictable when, perhaps with slackening of the intensive armaments race, lowering of prices will occur. *German ore deposits,* as far as they are

* Roechling, one of the foremost figures in the German iron and steel industry, was tried by a Tribunal in the French Zone of Occupation. See appendix B, volume XIV, this series, for the indictment, judgment, and judgment on appeal in the Roechling case.

being worked, must, with regard to those rich in iron, be exploited even more, in day and night shifts, in order to reach a maximum pace. He inquired how long the Siegerland ores would last even if careless methods should be employed. Thereupon, a number of years at least, was mentioned. Within this time, the world may change, so that careless methods may be entirely justified. As far as the deposits are as yet undeveloped, clarification must be quickly obtained as to when and how these ores are to be exploited. It is necessary here to work hand-in-glove with geological institutions and with prospecting firms. Without loss of time, examination of drill tests must be made and the question of exploitation tackled. To be sure, the rich ores of our soil might be insufficient.

Thereby he arrived at the critical question of *German low-grade iron* ores. The question of profitableness must be entirely disregarded here, although industry is otherwise bound by it. It is a proposition similar to that when an armament firm, which, by utilizing its capacity for a normal level of production, cannot exceed a certain limit of production, is nevertheless instructed to expand although no economic results can be expected. Nevertheless, this must happen. He is purposely leaving aside the question of how far the iron industrialists can carry this out themselves and to what extent they must receive aid. If vital plants are involved of which the state cannot demand so much that the firms would be ruined, then the state must help because these measures would have to be prepared for under all circumstances. It does not differ from the case of the production of explosives or guns, where one can just as little inquire about profitableness. The same point of view applies to low-grade iron ores. For provisions must be made in the event of Germany's isolation from foreign ore supplies preventing full and complete execution of the program of defense [Program der Verteidigung]. This naturally does not mean that the import of rich ores from foreign countries can be suspended, rather it is necessary that large reserves be created so that Germany can stand on her own feet. "In the name of the Fuehrer, who commissioned me especially to declare that he is not disposed to deviate from this course, I declare it to be my point of view that it must be possible to mine as much ore from German soil as may be required for war requirements proper." And if three times as many blast furnaces should become necessary then three times as many must be built. However, lack of ores must not endanger the program of munitions supply or of armaments in case of war. Everything possible must be undertaken on the part of private industry and the state must take over when private industry has proved itself no longer

able to carry on. For the state this is the same obligation as the building of battleships, guns, etc.

In this respect it is important that the soil of Austria is reckoned as part of Germany in case of war. Such deposits as can be acquired in Austria must be attended to in order to increase our supply capacity. Austria is rich in ore. He grew up there and with his father he observed again and again how many of the old ore mines had been abandoned. Obviously as a result of the development of communications, the ore supply from other countries came cheaper than shipment of Austrian ores by rail.

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Goering again urges that these research projects be carried out with the greatest zeal. We are, he says, at present in the *decisive years of preparation.* Mining output must be exploited to the limit. He says he is of the opinion that there were possibilities of greatly increasing the supply from *Austria* for a Germany that was cut off from the rest of the world.

VOEGLER: The Styrian ore mines are known as a large deposit in Austria. The raw ore has an iron content of 30 to 38 percent. By means of dressing [Aufbereitung] from 45 to 48 percent iron can be attained. It goes through the blast furnaces remarkably well. It is altogether pure and contains no phosphorus or sulphur. "Styrian steel" is famous for this reason. At the present date 28 million schillings have been put aside for developing the productive capacity. Two years are required for this purpose. Production could then be increased threefold.

The supplies to Germany from Styria can be doubled as early as 1938. Payment through clearing procedure presents a more difficult problem. To be sure, a large part of the required mechanical installations can be supplied by Germany, and credit provided in this way. It is hoped that there will be no interference in the transportation of the ore.

Goering inquires concerning Carinthia.

WENZEL: The Carinthian deposits are substantially smaller. They yield 20,000 tons per month, which, it is true, can be increased by means of suitable dressing. The possibilities cannot be compared with the Styrian ore mines, however.

Voegler expresses the opinion that in the A-case one could count on 6 million tons per year from Austria.

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Roechling makes the following statements: If war is considered, the situation as a whole leads to the following questions: In order to supply the German people in the *event of war* what goal must the German mining industry reach and in how many

years must that goal be reached? In the next 4 years there is not even a possibility of reaching approximately what seems to be required. If we wanted to be sure of reaching in 6 years what we would require in the event of blockade, then that should be stated now. How much must that be and where should it be procured? Mining requires time. In this one cannot make up for lost time. If the present time is not used, the necessary supplies will be lacking later. There is enough iron in our soil. The equipment must be provided at the opportune time, however.

Goering declares the preceding statements to be the basic problem. *One must first determine exactly the total amount of iron and steel that is needed.* Then one must determine what proportion can be replaced by *other metals.* The third consideration is, *where the poorer steel will do in place of the better.* Consideration must also be given in this connection to the processing capacity for tanks, guns, aeroplanes, etc., whereby it must further be borne in mind that Italy is a partner poor in iron.

In planning for Case-A all possible limitations must be provided for. If we had Sweden to supply us with ore in addition to Austria, it would be all the better. Nothing is expected from the industry that it cannot bear. No one should suffer economic collapse. He says he received a very happy impression today from the discussions, and that his great worry has gone, namely, that he might not have been understood and, that he did not have the cooperation of industry to the extent necessary for Germany. The representatives of the industry should certainly not take offense if he always played the part of a slave driver. He saw what success could be attained in the case of the building up of the Air Fleet.

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[Signed] REICHERT*

* Reichert was the manager of the Economic Group: Iron-Producing Industry.

TRANSLATION OF DOCUMENT NG-5339
PROSECUTION EXHIBIT 3907

LETTER FROM THE REICH MINISTER OF FINANCE TO THE REICH WAR MINISTER, 13 APRIL 1937, CONCERNING THE SECRECY PRACTICE WITH RESPECT TO MEFO BILLS*

[Handwritten] 13/4

The Reich Minister of Finance — Berlin, 13 April 1937

Su 1020—190 I

Referent: Ministerial Counsellor Bayrhoffer

Expedient Amtsrat Radebach

[Handwritten]. Read: Broe. 13 April
Read: [Illegible signature] 13 April
Dispatched: Broe. 13 April
as special top secret letter
against receipt

[Stamp] Top Secret

1. To the Reich War Minister and Commander in Chief of the Wehrmacht

[Handwritten] Attention: Herr Min. Dir. Dr. Tischbein or his deputy

With reference to the letter of 2 April 1937,
58 c 31 secret (mil)
130/37 top secret — W H (II)

[Handwritten marginal note] Herr Radebach: I request that previous correspondence in this matter be attached.
[Illegible initial] 10 April.

I hereby confirm that within my sphere only a small circle of officials is being assigned to work on matters connected with Mefo, so that the secrecy of the matter is secure.

The provisions for chapter XIV 2 section 1 [of the Budget] are "expenditures caused by the procurement of financial means in the form of credit;" the provisions for chapter XIV 3 section 2

* "Mefo Bills" were notes issued by the Metallurgische Forschungsgesellschaft m.b.H. (Metallurgical Research Corporation-Mefo). The International Military Tribunal, in discussing the defendant Schacht's relation to the Mefo bills, stated in its judgment: "He [Schacht] devised a system under which 5-year notes, known as Mefo bills, guaranteed by the Reich Bank and backed, in effect, by nothing more than its position as bank of issue, were used to obtain large sums for rearmament from the short-term money market." See *Trial of the Major War Criminals, op. cit.*, volume I, page 307. Concerning the Mefo company, the defense submitted an affidavit of Paul Niemetz which states, among other things: "The Metallurgische Forschungsgesellschaft m.b.H. was founded jointly by the High Command of the Armed Forces and the Reich Bank. The shareholders consisted of the most important armament firms, headed by Krupp. The Vorstand [managing board] of Mefo was composed of one representative of the Reich Bank and one of the OKW. The Reich Ministry of Finance was not represented in the company" (Schwerin von Krosigk 321, Schwerin von Krosigk Def. Ex. 181).

[of the Budget] are "Interest on the capital loaned for the temporary strengthening of the funds of the Reich Main Finance Office." The statements will be made in such a general way in the budget for 1937 that they will not reveal the purposes for which those amounts are being used by which the budget appropriations in the cases of the aforementioned chapters will be increased for the year 1937 as compared with the year 1936.

2. Files

By order:

[Initial] B [Bender] [Initials] By [Bayrhoffer] [Initials] Rb [Radebach]

9 April

TRANSLATION OF DOCUMENT EC–248
PROSECUTION EXHIBIT 950

LETTER FROM GENERAL KEITEL TO DEFENDANT KOERNER, 14 JUNE 1937, CONCERNING COOPERATION OF PLENIPOTENTIARY GENERAL FOR WAR ECONOMY AND PLENIPOTENTIARY FOR THE FOUR YEAR PLAN

Chief of the Armed Forces Office in the Reich War Ministry
Berlin W 35 14 June 1937
Tirpitzufer 72–76
Telephone Bi Kurfuerst 8191

No. 1067/37 Top Secret L IV a

Subject: Cooperation between the Four Year Plan and the Plenipotentiary General for War Economy
3 Copies, 2nd copy

[Stamp] Top Secret

Dear State Secretary:

As you already know, the President of the Reich Bank, Dr. Schacht makes the exercise of his function as Plenipotentiary General for War Economy [Generalbevollmaechtigter fuer die Kriegswirtschaft] dependent upon an arrangement concerning the cooperation with the Plenipotentiary for the Four Year Plan.

I know that a necessary practical basis for it has been already found, and only a formal agreement is needed in order to carry on the common work.

I beg you now to speed up if possible this agreement with the President of the Reich Bank, Dr. Schacht, for the following reasons:

Because the President of the Reich Bank, Dr. Schacht, is not exercising his office as the Plenipotentiary General, the decisions on essential problems of mobilization and conduct of war remain unacted upon.

The Referenten of the Plenipotentiary General [for War Economy] can, without responsible leadership, do nothing else but raise precautionary objections against numerous projects of the Reich War Minister. At such a slow pace the complicated modern war machine [Kriegsinstrument] cannot be prepared. To waste time, in our situation, would be the greatest reproach that history could make against us.

May I beg, therefore, once more that the arrangement mentioned be expedited and that I be notified accordingly.

After dispatch:

Economic staff

Heil Hitler!

[Signed] KEITEL

[Stamp] Economic Staff [Illegible initials]
17 June 1937 1122
No. 1725/37 Secret Encl.—
[Illegible initial] 17 June

PARTIAL TRANSLATION OF DOCUMENT NI–084
PROSECUTION EXHIBIT 967

EXTRACTS FROM THE RECORD OF A CONFERENCE OF GOERING WITH REPRESENTATIVES OF THE GOVERNMENT AND PRIVATE INDUSTRY, 16 JUNE 1937, CONCERNING IRON AND STEEL QUOTAS AND RELATED MATTERS

SCARCITY OF IRON AND IRON QUOTA SYSTEM IN COMPENSATION OF CURRENT CONSUMPTION AND FOR THE PURPOSE OF NEW CONSTRUCTION

Memorandum of the conference held on June 16, 1937, in "the Haus der Flieger," in Berlin

The following gentlemen, under the chairmanship of General Goering were present:

For the Plenipotentiary for the Four Year Plan:
Staatsrat Neumann
Ministerialrat Gramsch and others

For the Division—Distribution of Raw Materials:
Ministerpraesident Koehler
Special Commissioner Keppler

From the Air Ministry:
General Udet

From the Office for German Raw Materials and Synthetic Materials:
Colonel Loeb
Dr. Krauch
Captain [of the Navy] Neureuther
Major Geist
Mr. Pleiger

Reich Commissioner for Price Administration:
Reich Commissioner, Gauleiter Wagner
Regierungsrat Rentrop

From the Reich Institute for Employment [and Unemployment Insurance]:
President Dr. Syrup

From the Reich Ministry of Economics:
Oberberghauptmann Schlattmann

From the Control Office for Iron and Steel:
Oberregierungsrat Dr. Kiegel

Others Present:
Gauleiter Sauckel of Thuringia and [his] Gau economic adviser

From the Coal-Mining and Iron Industries:

Borbet	Reichert
Bulle	Roechling, Hermann
Buskuehl	Scheer-Hennings
Goerens	Voegler
Kellermann	Vosemann
Maulick	Winkhaus
Poensgen, Ernest	Wisselmann

* * * * * * *

By exporting semimanufactured goods Germany doesn't realize as much on foreign exchange as she would on products which represent more work [Arbeitsaufwand]. The ideal would be to export no more semimanufactured goods at all, but only finished products. There is no machine which we couldn't sell abroad. If we stop to calculate the *amount of foreign exchange used* in importing raw materials from abroad, then there is very little use in it.

With his voice pitched higher, Goering continued: *In a time like this we cannot export one-third of our total iron production.* (Approval by the representatives of the authorities.) Naturally it is convenient to keep up this export, but we must put forth

every effort to examine our export goods from the viewpoint of increasing our export along some other line.

One must consider this matter as a whole. *On a ton of semi-manufactured goods we sell abroad we realize just about RM 100 —in foreign exchange!* On the other hand, if we take a ton of iron and use it up in constructing *plants of the Four Year Plan,* then in most cases, I have found the saving in foreign exchange to be four or five times, even six or ten times as much. This is just the purpose of the Four Year Plan.

Goering again raised his voice and called out: "Selling German iron is not difficult. I could sell the whole production of iron, including manufactured goods abroad today."

From the very start I have taken this standpoint. It is *not* my duty to *distribute the iron on hand, but to increase the production,* in other words, to eliminate the shortage. In reviewing the measures of my initiative I have up to this day seen to it that additional iron and iron ore could be produced in Germany. Tremendous results are involved here. I have squeezed General Franco to the utmost for iron from *Spain.* After the occupation of Bilbao, I will confiscate all the ore of that place whether it belongs to the British or not.

We would be much better off if the German industry had not opposed *the production of iron from German iron ore.* With an agitated voice, Goering continued: It's a nuisance, I shall have no scruples to give orders, that the German soil will be drained of iron to the utmost.

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To me it seems essential: If I want to increase the yield of milk of a cow then I must give her more to eat. This also applies to the iron industry. In order to produce more iron, *I must supply the foundries with more iron to meet their current needs. In the first place the iron must be delivered, where this is essential* for a subsequent increased production. This demand has *first priority even* above the armed forces, the Four Year Plan, etc. The next important factors to be considered in the supply of iron are all on *the same level,* to wit: The armed forces, Four Year Plan and export. The Four Year Plan will do its share to create a foundation upon which armament [Aufruestung] may be accelerated. To be sure, without foreign exchange, I cannot carry out the Four Year Plan 100 percent.

In the *armed forces,* those undertakings must receive first consideration which manufacture things claiming a long period of construction. *Warships,* by all means, must get their supply of iron. Guns for battleships and other big guns fall in the same

class. This is also true of *machine-shops,* which will permit us an extension of the manufacture of guns. These also will have to be supplied above others. *Now where is the value of a ton of iron best utilized?* By the armed forces, the Four Year Plan, or in export? Where are the largest savings of foreign exchange? To examine these problems, I shall call upon men who know how to calculate. There exists in regard to the export of semimanufactured goods a certain compulsion, if we want to pay with them the import of other goods, that is, of ore. I can't say no, if *Sweden* wants semimanufactured goods in exchange of her ore. But certain *other commercial treaties* may be violated in cold blood, unless the export of semimanufactured goods results in bringing in import-goods of vital importance. Here one has to lead a fierce trade war [handelspolitischer Kampf] to make it clear to a country wanting semimanufactured goods, that it only can have finished goods. Now for example we can't give *south-eastern Europe any more semimanufactured goods for their wheat.*

I shall have these problems examined to the last consequences. With his voice pitched to a higher level, Goering continued—*Without compelling economic or political reasons I shall not export any more semimanufactured goods.*

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Whoever possesses only a spark of *political understanding* must realize that we find ourselves not only in a passing boom, but that everything is being done to make this boom a permanent one. What *enormously gigantic building projects* are being planned for decades to come. The project made known in Hamburg gives evidence of this. Add to this the political will to prevail in such a way, regardless of who might eventually succeed the Fuehrer. Even then there will be a great testament to be carried out. To be sure, I cannot tell what will be five hundred years from now. But according to human judgment, I can assure you that for the next generation, you will not need to regret the investments made by you today. Just imagine China with its 400 millions and its immense capability of absorbing iron. There, as well as in South America, the railroad systems are by no means sufficiently developed. Shouldn't the Sahara Desert be brought into cultivation as well? Ever since the early man accidentally melted iron it will remain for all time the most important of all metals. This is my innermost conviction. Because of the efficiency of our workers, there will be a demand for iron products all over the world. In regard to ore deposits, the whole North German area has by no means been thoroughly prospected, the same is

true of the East. Of copper we have already found various deposits. It sounds very presumptuous, but I am convinced of the truth; if today each and every one who has anything to do with these problems would cooperate with the same passionate determination that inspires me, then this work would succeed. One should always again look upon it as a whole. The journey goes upward—*

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The *export* may easily lead to the facilitation *of armament of the enemy.* I am thinking for instance of *heavy plates* which are needed abroad by the armament industry.

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Concluding, Goering again raised his voice—You must be doing many-fold that what you have been doing. If deposits of ore have been turned over to you, you should not only drill holes, but also work the pits. Possibilities to work smaller mines must be made use of. On the smelting industry also more must be done. I have already come to the conclusion *to have a very large plant built under my personal influence.* It is immaterial to me if this plant should belong to the State, or if it will be built by you and afterwards belong to you. The last misgivings about *mining German iron ore* must vanish. We must do this. As long as these preparations have not been concluded, none of you will any longer be able to enjoy a good sleep. In Spain and Sweden unsteady political situations are existing. This may have dreadful consequences for the German iron industry. The necessity to mine the German iron ore has been existing for a long time already. Now in the last hour, it must be done. When this is not done, then we will take the ore away from you and do it ourselves.

The Discussion which takes up about an hour, is opened by Gauleiter Sauckel, Thuringia. He complains vehemently about the inadequate supply of iron for the *Suhler* Rifle Factory [Suhler Gewehrfabrik] and accuses the iron-trade and iron-industry that they show partiality to less complicated business. It had happened that iron was supplied which had allegedly been brought from Luxembourg, but turned out to be German iron. One would soon have to reckon with the laying-off of workers. He said there was bitter indignation over the fact that in spite of the identification number and priority certificate one could not get any iron. Goering is not impressed by these expositions and very calmly demands that first of all one should ascertain how

* Most of this paragraph was also introduced in evidence as Document Koerner 242, Koerner Defense Exhibit 41.

much iron had been used during the last year in this plant. Certainly enough iron had been received during the last year. It could only be a question of an *error in the organization of the Wehrmacht* for there were available:

90,000 tons raw steel for the manufacture of arms and implements which is to be carried on to full capacity
93,000 tons for the manufacture of ammunition
25,000 tons for warships

All this had been allocated in full—altogether 197,000 tons. Besides this there were 92,000 tons for the construction of such things as permanent barracks, airfields, and the like. Everything had been allocated. Perhaps the Wehrmacht had put too much iron into buildings.

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POENSGEN: Let me finish. In the meantime we received *the order from the Minister of Economics* to reduce the *direct export by 15 percent* in favor of the indirect export. This is being carried out by us. This amounts to 40,000 tons less a month with us, and is being transferred to the indirect export. This will have to be done principally with bar or wrought iron; I am sorry to say, we cannot restrict the export of refined products such as wire or hoop-iron. Yesterday I understood Colonel Loeb to say that of 505,000 tons of steel in all (without castings) 40,000 tons are to be allocated for the indirect export. There was besides this another reason for Herr Loeb wanting to put a restriction on the 500,000 tons and that was *in favor of a* more satisfactory provision for the supplying of foundries and mines. Should this be carried through, then I must be released from my responsibility to procure foreign exchange. I cannot discuss this any more.

In regard to *the shipments of iron to the so-called enemy countries* [sogenannten feindlichen Laendern] like England, France, Belgium, Russia, and Czechoslovakia, only 6 percent of our export goes there. That does not help the British to keep up their armaments. The British have greatly increased their export in comparison with last year. But, with the quota agreement, we now have limited the export of *England, Belgium, France, and Luxembourg*. If we should now greatly reduce our export, then this iron would be lacking abroad. Then Belgium and Luxembourg would try to export more iron, and in its place import more ore from Sweden. Then they would be out of control, whereas today we can prevent them from exporting more than 30 percent.

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PARTIAL TRANSLATION OF DOCUMENT NI–353
PROSECUTION EXHIBIT 968

EXTRACTS FROM NOTES ON A SPEECH BY GOERING TO LEADERS OF THE IRON AND STEEL INDUSTRY AT THE "HAUS DER FLIEGER," 23 JULY 1937, ANNOUNCING THE FOUNDING OF THE HERMANN GOERING WORKS[1]

I have today requested all leading men of the iron and steel industry[2] to come here to talk to them again about the situation in the iron and steel industry and draw conclusions therefrom. You all know that we are suffering from an extraordinary shortage. This is not a shortage in the sense there is less available than previously. On the contrary, we have made progress in the last months. But also the requirements have increased considerably (not only for armament but also for the construction of plants within the framework of the Four Year Plan).

In the past months everything has been to import new ores or to increase the production of substandard ores within Germany. It is very important to me that assembled here are the representatives of the State, of industry, and of the armed forces. I now have in mind to present to you steps I recommend to be taken in the iron and steel industry.

I have talked of a shortage from which we are suffering and will now determine how this has happened.

Requirements above need—therein lies the main reason for the unnecessary shortage.

High demands of the building industry—I will refer to this later.

Plant improvements.

Too much emphasis on direct export.

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[1] According to a cover letter which is part of this exhibit (but not reproduced herein) portions of Goering's speech from which these extracts were obtained were recorded by an official of the Economic Group: Iron-producing Industry.

[2] On the day before this meeting, the Plenipotentiary General for Iron and Steel Production and Allocation, Colonel (later General) Hanneken, was informed that the following representatives of the Reich Group Industry, the Economic Group Iron-producing Industry, and the Steel Mills Association, Inc. would attend this meeting:

Baare	Deputy Manager, Economic Group: Iron-producing Industry
Gen. Dir. Borbet	Bochumer Verein
Geheimrat Peter Kloeckner	Kloeckner-Werke A.G.
Dir. Dr. Klotzbach	Fried. Krupp A.G.
Dir. Luebsen	Gutehoffnungshuette
Dir. Maulick	Steel Mills Assoc., Inc.
Dir. Meier	Dortmund-Hoerder Huettenverein
Dir. Dr. Helmuth Poensgen	Vereinigte Stahlwerke A.G.
Dr. Scheer-Hennings	Steel Mills Assoc., Inc.
Dr. Steinberg	Manager, District North-West, Economic Group Iron-Producing Industry
Dir. Steinbrinck	Mitteldeutsche Stahlwerke A.G.
Bergassessor Dir. Dr. Wenzel	Vereinigte Stahlwerke A.G.
Gen. Dir. Zangen	Mannesmannroehrenwerke

It does not make sense to determine who in the past has been guilty of placing us in this position. We need not therefore speak of culprits because the basic requirements, the foresight, did not exist, the trade and handicraft industry did not anticipate how great the possibilities were which the restrengthening of Germany brought about.

We must now recognize the faults and learn by them, then must find a solution, which renders prosperous work possible. To begin with, it is necessary to put the iron-industry in such a position that it cannot only maintain its present production but increase it considerably. We must go on with the mining and smelting of German ore to a considerably greater degree. Therefore, I have decided to establish a national factory, the A.G. fuer Erzbergbau und Eisenhuetten "Hermann Goering."

My name is given intentionally so as to point out publicly that ironworks must quickly be conjured out of the ground and be as large as possible. At the same time, that measure shows what extraordinary importance I attribute to our own German mining. Iron is the decisive raw material, in order to win for the nation freedom and space.

The newly founded smelting-works shall be erected in Salzgitter, Baden, Upper Palatinate. It is a matter of three large plants, of which the plant in Salzgitter will be the largest (in Europe). Difference from the hitherto existing utilization of German ore—the German ore will go to the blast ovens without previous dressing. I will accelerate the work by all possible means, so as to have the greatest possible percentage of the production out of that ore and to get the same quality as with the utilization of foreign ore.

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Bridges—to be built with stones. That is more beautiful and lasts longer. In the case of bridges which have only partly been built, it will be necessary to enforce a rearrangement. Where iron is absolutely necessary, it must naturally be given. In any case, it is possible to save still more material with bridges and with above ground and underground building.

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Finally, the necessity to place the general interest before everything was emphasized once more. Today iron is everything. Innumerable questions concerning the security of the nation are tightly connected with the raw material iron. Lack of iron exists not only in Germany but in many other countries, especially in England. Let us demonstrate that the structure of the Third Reich is more apt to master a difficult situation than the structure

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of parliamentary-democratic states. It is not important that you fill my ears with your complaints, but that you pull yourself together so as to achieve and master with me the difficult but promising tasks. The situation is such that I do not want to master it with threats. I ask you sincerely to grant me your active and resolute cooperation.

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TRANSLATION OF DOCUMENT NID–13629
PROSECUTION EXHIBIT 952

GOERING DECREE ON THE REORGANIZATION OF THE REICH MINISTRY OF ECONOMICS AND THE CONTINUATION OF THE FOUR YEAR PLAN, 5 FEBRUARY 1938, INCLUDING THE ANNOUNCEMENT OF THE ESTABLISHMENT OF THE REICH OFFICE FOR ECONOMIC DEVELOPMENT AND MEMBERSHIP OF THE GENERAL COUNCIL OF THE FOUR YEAR PLAN AND THE SMALL MINISTERIAL COUNCIL

Berlin, 5 February 1938
W 8, Leipzigerstr. 3

Minister President, Field Marshal Goering
Plenipotentiary for the Four Year Plan
St. Dev. 1245

Decree on the Reorganization of the Reich Ministry of Economics and the Continuation of the Four Year Plan[1]

In my basic decree of 22 October 1936 on the Implementation of the Four Year Plan[2]—St. K. Dev. 265—I had ordered that the handling of the tasks of the Four Year Plan, entrusted to me by the Fuehrer, be done by commissioning the offices concerned to the largest extent possible, and that new offices be established only as few as possible. The past year, however, has shown that for the carrying out of the widely ramified tasks connected directly and indirectly with the Four Year Plan, a certain extension of the offices beyond the originally planned degree was indispensable, at least at the beginning. In some places, this was detrimental to the supervision of the various offices. In order to avoid that the carrying out of the Four Year Plan within the appointed date suffers by this development, the Fuehrer charged me with the simplification of the entire organization of the Four

[1] This reorganization took place at the time Walther Funk was appointed Reich Minister of Economics.

[2] Document NG–1221, Prosecution Exhibit 460, reproduced earlier in this section.

Year Plan by combining as far as possible the authorities of the Four Year Plan with the Reich Ministry of Economics. In execution of this order I determine the following:

I. Simplification of the Agencies [Behoerden] of the Four Year Plan

1. To the jurisdiction [Geschaeftsbereich] of the Reich and Prussian Ministry of Economics will be transferred:

a. The sphere of activities [Aufgabengebiet] of the Office for German Raw Materials and Synthetic Materials.

b. The sphere of activities "Industrial Fats."

c. The sphere of activities "Research of German Soil."

d. The sphere of activities of the Plenipotentiary General for Iron and Steel Production and Allocation with the exception of the fixing of quotas.

e. The sphere of activities of the Division for Foreign Trade.

f. The sphere of activities of the distribution of raw material.

As to a and b:

In the first phase of organization it was inevitable that both the Office for German Raw Materials and Synthetic Materials and the sphere of activities of "Industrial Fats" had to reach decisions on principle and take care of the tasks of preparations and of the carrying out in detail. The progress in the development now permits to transfer these functions both to the Ministry of Economics itself, and to a newly founded "Reich Office for Economic Development"* [Reichsstelle fuer Wirtschaftsausbau] in accordance with the established principle of government organization; consequently, the Reich Ministry for Economics takes over the tasks of the leadership for the raw material economy within its working sphere for the Four Year Plan, while the Reich Office for Economic Development takes over the preliminary labor on exploration and development as well as the execution of the planning and the carrying out in detail. The leading tasks of the Reich Ministry of Economics result from its position as a central authority. As to the activity of the Reich Office for Economic Development, the following is stated:

The first department of the Reich Office is in charge of *research and development.*

The Reich Office has to see to a systematic cooperation with the existing research institutes and similar organizations of every kind. This applies particularly to the economically correct determination of tasks for research work. Above all, an accelerated

* Carl Krauch, member of the Vorstand of the I.G. Farben concern was made Chief of the Reich Office for Economic Development and later designated by Goering as Plenipotentiary General for Special Questions of Chemical Production. For further details, see the "I.G. Farben Case," United States *vs.* Carl Krauch, et al., Case 6, volumes VII and VIII, this series.

scientific research has to be effected with regard to the tasks within the framework of the Four Year Plan assigned by the Fuehrer; any results of experiments are to be advanced technically as quickly as possible for practical use.

In this connection, the Reich Office also is to take care objectively, impartially, and without prejudice of the inventors and inventions. Furthermore, it will make use of [auswerten] existing valuable ideas which have often been unappreciated or neglected.

The second department of the Reich Office will work on the tasks of *planning and execution.*

On the basis of research work, the Reich Office will be able to submit to the Reich Ministry for Economics proposals for the use of the knowledge gained. The Reich Minister for Economics, who in questions of fundamental importance is to contact me, will decide on how far such individual proposals are in keeping with the planning made up to this time, respectively how far they are made to turn the development in another direction.

With regard to the carrying out of the tasks for planning established by the Ministry, the Reich Office will work according to instructions of the Reich Minister for Economics by drawing up individual designs, by taking care of buildings, by preparing the financing of individual plans, etc.

The Reich Office also attends to tasks of other departments [*Ressorts*]. Tasks in the industrial field, as to be carried out by the Reich Ministry for Economics, will also arise in other departments. In the business sphere of the Reich Ministry of Food, for instance, a series of technical tasks regarding development and construction, play a certain role in the field of the battle of production. Likewise, in the business sphere of the Reich Office of Forestry there are tasks of research and development which necessitate, as the past has shown, the establishment of a number of new industrial installations. For these and similar tasks of other departments, the Reich Office for Economic Development will also be available. It is absolutely desirable that the departments make use of the cooperation with the Reich Office as far as possible, so that experiences gained by the latter may be utilized in many places. This does not affect the responsibility of the ministries in their business sphere. Every ministry will be responsible for its part within the entire tasks of the Four Year Plan.

Character of the various Agencies—The Reich Office for Economic Development is a higher Reich agency [Reichsbehoerde] subordinate administratively [dienstaufsichtlich] to the Reich Ministry of Economics.

As to c:

The working sphere "Research of German Soil" (see above, 1*c*) will be taken over on 1 April 1938 by the newly founded *"Reich Office for Soil Research"* [Reichsstelle fuer Bodenforschung] headed by the Reich Minister of Economics.

This decree will be sent separately to the Reich and Prussian Minister of Economics.

2. The Reich Commissioner for the Utilization of Scrap Material with his hitherto existing sphere of activities and his office will be subordinate to the Reich and Prussian Ministry of Economics.

3. Besides the Reich and Prussian Ministry of Economics, the following *organs of the Four Year Plan* will remain in existence:

Reich Commissioner for Price Administration
Division Labor Allocation
Division Food
Division Foreign Currency

In addition, there will be—

Division Forestry
Division Traffic

There will be no change in the establishment and tasks of the *Foreign Exchange Investigation Office,* as well as in other special tasks of the Secret State Police within the framework of the Four Year Plan.

4. My permanent deputy in all matters concerning the Four Year Plan is State Secretary Koerner, as up to this time.

5. All matters of the press, propaganda, and economic propaganda within the Four Year Plan are united, as hitherto, in my press office, which will reach the necessary decisions. The Press Office of the Reich and Prussian Ministry of Economics as well as the press offices of other ministries working for the Four Year Plan are to keep in close contact with my press office.

6. For the preparation of fundamental decisions I now as before reserve the right to myself to convoke *conferences of chiefs* [Chefbesprechungen] which will be held under my chairmanship.

7. In order to secure in the future also the necessary cooperation in current affairs among the various departments concerned in the Four Year Plan, the *General Council* [Generalrat] will remain in existence. The General Council has to take care of the necessary connections and has to organize the tasks according to uniform points of view. In the General Council, the individual planning of the ministries will be put into accord with one another and then combined into a total planning.

I myself will hold the presidency in the General Council. Here

also, State Secretary Koerner will be my permanent deputy. Secretary to the General Council will be State Counsellor Neumann.

Other members of the General Council will be—

1. State Secretary Brinkmann
2. State Secretary Posse
3. State Secretary Backe
4. State Secretary Kleinmann
5. State Secretary Alpers
6. Reichsfuehrer SS Himmler
7. Oberpraesident and Gauleiter Wagner
8. President Keppler
9. President Syrup
10. Ministerialdirektor Mansfeld
11. Ministerialdirektor von Jagwitz
12. Ministerialdirektor Schmeer
13. Brigadier General von Hanneken
14. Brigadier General Loeb

In particularly important cases the Small Ministerial Council [Kleine Ministerrat] will meet. Members of the Small Ministerial Council will be—

1. Reich Minister Funk
2. Reich Minister Darré
3. Reich Minister Count Schwerin von Krosigk
4. Reich Minister Kerrl
5. Reich Minister Schacht
6. State Minister Popitz
7. State Secretary Koerner

II. Reorganization of the Reich and Prussian Ministry of Economics

The affairs of the Reich and Prussian Ministry of Economics are handled in the following departments:

1. *Department Z.* (Central Department—Administration, budget, personnel)
2. *Main Department I*

This department will take over the tasks of the hitherto existing Office for German Raw Materials and Synthetic Materials, and the sphere of activities, "Industrial Fats," as assigned to the Ministry (see above, I. 1 as to *a* and *b*) with regard to spinning material, leather, light metals, stones and earth, chemistry and mineral oil, the economic control of the mentioned materials, and general questions concerning industrial raw material economy. It has further the supervision of the Reich Office for Economic Development.

Sections:

a. General Question
b. Special Industrial Matters [Industrielle Fachreferate]
c. Chemistry
d. Mineral Oil, Synthetic Fats, and Oils

3. *Main Department II.*

This department will take over the tasks of the hitherto existing mining department and the tasks of the metal economy (except light metals), which have been dealt with up to this time partly by the Ministry of Economics, partly by the Plenipotentiary General for the Iron and Steel Production and Allocation and the Office for German Raw Materials and Synthetic Materials. Furthermore, this department will take care of matters of power economy. Beside other Reich and State Works falling into its business sphere, this department will also be in charge of the Reichswerke fuer Erzbergbau und Eisenhuetten "Hermann Goering" A.G.

Sections:

a. Mining
b. Iron Economy
c. Power Economy

4. *Main Department III.*

This department will deal with questions of economic order, of trade and handicraft, of economic-technical supervision of trade, with economic questions in various areas, etc.

Sections:

a. Organization of Economy
b. Trade Police [Gewerbepolizei]

5. *Main Department IV*

This department will take over the tasks of the hitherto existing department for monetary and credit matters, and, in addition, the task of financing the plants of the Four Year Plan, which have been handled so far in the Office for German Raw Materials and Synthetic Materials.

6. *Main Department V*

This department will take over in three respective sections:

a. The *laender sections* of the hitherto existing commercial-political department of the Reich Ministry of Economics, which will be combined with the laender sections of the commodity department of the Reich Office for Foreign Currency.

b. The remainder of the *Reich Office of the Control of Foreign Currency.*

c. The control of export. The hitherto existing department E of the Reich Ministry of Economics, and the working sphere of

the hitherto existing group for foreign trade will be merged in this section.

7. The Press Office of the Ministry will be put directly under the Minister himself; the Referat of War Economy, the Reich Office for Soil Research as well as the Generalreferent will be subordinate to the State Secretary.

8. For all details, the organization chart transmitted separately to the Reich Ministry of Economics will be decisive.

III. Final and Transitional Provisions

1. The heads of the hitherto existing divisions of the Four Year Plan and the Reich Commissioner for the Utilization of Scrap Material who are affected by this reorganization will contact immediately the Reich and Prussian Minister of Economics with regard to the carrying out of the reorganization.

2. All details for the establishment of the Reich Office for Economic Development will be settled by the Reich and Prussian Minister of Economics.

3. Legal budgetary questions still unsettled will be arranged by the Reich and Prussian Minister of Economics directly with the Reich Minister of Finance.

4. The *reorganization* will be effective 1 February 1938. At the same time, my former decrees on the organization of the Four Year Plan will be repealed, particularly the decrees of 22 October 1936 (St.M.Dev. 265); 26 November 1936 (St.M.Dev. 1007); 5 May 1937 (St.M.Dev. 2431 II); 3 July 1937 (St.M.Dev. 3901), and 12 July 1937 (St.M.Dev. 4122).

Signed: GOERING

TRANSLATION OF DOCUMENT NID–12215
PROSECUTION EXHIBIT 933

ARTICLE BY DEFENDANT KOERNER IN THE MAGAZINE, "THE FOUR YEAR PLAN," FEBRUARY 1938, CONCERNING THE REORGANIZATION OF DIRECTION OF GERMAN ECONOMY*

Leadership and Economy

The Reorganization and Unification of the National Economy Leadership

by Paul Koerner

By charging Minister President, Field Marshal Goering with the execution of the Four Year Plan, the entire German economy, for the first time, was directed towards achieving one aim and placed under one superior command. As new offices of economic direction, the administrative groups of the Four Year Plan brought a new impulse to German economy. The governmental economics offices having previously initiated a certain direction of sections [of the economy], a demand grew for state control of all fundamental economic proceedings. This demand was satisfied, in principle, by the organization of the Four Year Plan. At first, however, in individual cases, there was some overlapping of Reich offices limited to special spheres in regard to the competencies established by the state which rendered unified control difficult.

These drawbacks were soon recognized by Minister President Goering who announced a fundamental reorganization in this department as early as in December of last year. This has been completed in the meantime under his personal guidance and according to his plan and initiative. The object of the reorganization was to establish a strictly organized and effective instrument controlled by the Plenipotentiary for the Four Year Plan and guaranteeing the solution and achievement of the problems of German economy. The practical result is a Ministry of Economics, entirely new in its organizational structure and its adaptation to the tasks of German economy as laid down in the Four Year Plan, and, over and above this, the final stabilization of a unified National Socialist control of economy in Germany. Whatever individual possibilities for additions and changes may yet arise in the course of time cannot substantially change the prospect. In the course of these weeks, structure and organization of the state control of economy were laid down once and for all.

* A number of articles from the monthly magazine "The Four Plan" (Der Vierjahresplan) are reproduced hereinafter in whole or in part. On its title page, just following "The Four Year Plan," appeared the following subheading: "Periodical for National Socialist Economic Policy. Official Notices of the Plenipotentiary for the Four Year Plan, Minister President, Field Marshal Goering."

Unified leadership of economy—This has been the slogan for the organizational efforts of the past weeks and months. In order to reach this goal, a beginning had to be made, naturally enough, with the reorganization of the Central Office. The commission assigned to Minister President Goering by the Fuehrer for the realization of the Four Year Plan made it possible to take the necessary steps to ensure the smooth functioning of the supreme administration of economy. The supreme administration, however, works all the better the more it is relieved of dealing with subordinate questions and is able to concentrate on and limit itself to attending to broad outlines. Therefore, the decision, above all on fundamental matters of German economy, has to be assigned to the supreme administration. All technical questions, on the other hand, even those of a fundamental nature, were ascribed to their respective departments [Ressorts] for attention and decision in accordance with the principles and the directives of the supreme administration. It was for this reason that the Division "Transportation" [Geschaeftsgruppe Verkehr] in the Reich Ministry of Transportation and [the Division] "Forests" in the Reich Forestry Office had now to be added alongside the already existing Division "Food" of the Reich Ministry of Food and [the Division] "Labor Allocation" [which is] working in conjunction with officials of the [Reich] Ministry of Labor.

Certain difficulties were encountered in splitting up the tasks of leadership in the spheres of industry, commerce and trade. In accordance with the regulations applying to other spheres, control here had of necessity to be restored to the competent Ministry, that is, the Reich Ministry of Economics. The authority hitherto held by the Office for German Raw Materials and Synthetic Materials, by the Plenipotentiary for Iron and Steel Production and Allocation, and by the Division "Foreign Trade," were consequently restored to the Reich Ministry of Economics. However, insofar as former offices of the Four Year Plan were concerned with problems pertaining to the executive body, these will be transferred to the executive authorities controlled by the Reich Ministry of Economics, since the leading organs of separate technical sections are not to be burdened with tasks of minor importance. This also applies to the newly established Reich Office for Economic Development, which is controlled in its planning and research by the directives of the respective departments, and has, above all things, to submit the results of new research work to them for approval; and furthermore to the recently established Office for Soil Research, which came into existence by the fusion of the Regional Offices for Geology and the Reich Commissioner for the Utilization of Scrap.

Thus it is not merely a mechanical fusion of offices pertaining to the Four Year Plan with those of the Reich Ministry of Economics, but a new and lasting organization which was created and which took into account the over-all economic exigencies and dealt with them according to National Socialist principles. A Ministry of Economics has been established which is entirely new in its organization and internal structure. The fact that only capable and approved personalities connected with former organizations of the Four Year Plan have been entrusted with the management of the newly established main sections of the ministry, is in itself a guarantee for its proper functioning.

A special position within the whole organization will be occupied, in the future as before, by the Reich Commissioner for Price Administration and the Division "Foreign Currency." These two offices, dealing with tasks other than technical, have to be approached from an angle of collective economy, calling for centralized, special treatment directly under the supervision of the Plenipotentiary for the Four Year Plan. This also applies to the control of press propaganda and economic publicity within the Four Year Plan. This too is to remain under one central office, which is responsible for making all important decisions. Special practical importance is finally attached to the cooperation of the Foreign Exchange Investigation Office—as an additional office of the Plenipotentiary for the Four Year Plan—attending, as before, to its important special tasks of keeping in close touch with the respective departments.

On the whole, this will result in a rather extensive split-up of duties within the sphere of economic control, the practicability of such a distribution increasing, however, the more a unified control of and cooperation among all offices concerned can be guaranteed. This object has been achieved by the reorganization of the Ministry of Economics. The gap, so far preventing or at any rate checking a unified control of economy, has been closed. Minister President Goering having been effectively relieved of routine business and work by the new Ministry of Economics, and now being in charge of the supreme control of German economy, will devote himself with increased energy to the main tasks of his leadership—namely, to outlining plans for the development of German economy and the aims of economic and social policy, and to supervising their operation. In this he can now rely on the cooperation of all ministries and departments concerned, whether in conferences of chiefs or in meetings of the General Council, the latter already during the past year having proved its worth as a coordinating body, free from matters of technical detail. With their support he can find relevant solutions to pertinent

problems in accordance with national political and economic requirements and, if need be, settle disputes between conflicting departmental points of view.

In future, every supreme authority will cooperate, in an advisory capacity, in the preparation of fundamental decisions on all questions concerning economic and social policy. This complies with the first demand for unified control, that of arriving at truly fundamental decisions inspired by the highest sense of responsibility and founded on technical accuracy, supported by the cooperation and advice of all concerned.

In this way unified state control of economy has been introduced and developed in keeping with National Socialist principles, creating, at the same time, a basis allowing for a rational, simplified and uncompromising organization of economy extending to its most subordinate branches. However, organization is not an end in itself and should not obstruct but pave the way for the successful development of economic efficiency to the entire nation's benefit. The state will and must lead the economy, the organization of the economy must therefore absolutely guarantee that the orders and directives given by the state are carried out in the most suitable and effective manner. Therefore it must be elastic and place the responsible leaders of the economy individually in a position to exercise their influence and expert knowledge fully within the limits of the directives given by the state. The great experience of the economist and the indispensible creative initiative of the businessman should both contribute to the permanent invigoration of this new economic organization.

The more business [die Wirtschaft] and business organizations [Organisationen in der Wirtschaft] realize that there are more vital interests at stake than their own, that, in fact, the main objective is to solve the problems of national politics and collective economy by rational and efficient collaboration, the more will the business organizations then be in a position to accept full responsibility for the achievement of the great tasks assigned to them by the state, making due allowance for existing peculiarities and technical requirements of their respective economic spheres and branches of economy.

Whatever form will be assumed, in detail, by the organization of economy, the task achieved by Field Marshal Goering during the past weeks will irrevocably remain, constituting a guarantee for the consummation of German economic aims—the unified and effective control of economy by the state, incorporated in the authority of the Plenipotentiary for the Four Year Plan, and an unconditional pledge to the Fuehrer that German economy will actually attain its goal as set by him.

PARTIAL TRANSLATION OF DOCUMENT R-140
PROSECUTION EXHIBIT 970

MEMORANDUM OF THE OFFICE OF THE REICH AIR MINISTER, 11 JULY 1938, TRANSMITTING MINUTES OF GOERING'S CONFERENCE WITH GERMAN AIRCRAFT MANUFACTURERS AT "KARINHALL" ON 8 JULY 1938

The Reich Air Minister and Commander in Chief of the Air Force
Aide-de-Camp
Major Conrath

Berlin, W8, 11 July 38
3 Leipziger Strasse
Staff Headquarters
Telephone 12 00 44

Staff HQ—Dept II No. 134/38 secret

[Stamp]

SECRET

To General Udet

Enclosed I transmit a copy of the shorthand minutes on the conference with the aircraft manufacturers on 8 July 1938 at Carinhall.*

[Signed] CONRATH
Major

1 Enclosure

Dr. Eggeling/Ba

CONFERENCE WITH THE GENTLEMEN OF THE AIRCRAFT INDUSTRY AT KARINHALL, 8 JULY 1938, 1130 HOURS

FIELD MARSHAL GOERING:

Gentlemen: May I first welcome you here and express my satisfaction that we have come here together again to discuss our problems. Today I invited you here [Carinhall], in order to have you later on as my guests, thus giving expression to the feelings of solidarity between us.

Before we start our discussions I am in duty bound to commemorate here too the man who, being one of you, always was among the first to press for the development of German aviation and of the German Air Force. It is a grievous loss which the

* Carinhall, also spelled "Karinhall", was Goering's country estate in the Schorfheide (Schorf Heath) near Berlin.

aviation industry has suffered through the departure of your member, Mr. Hellmut Hirth.[1]

(Those present rise from their seats.)

I thank you.

Gentlemen, the situation today does not differ from that which existed at the time of my last address except perhaps for the fact that it is even more serious today. You are aware that today it is no longer Germany on whose attitude the continuance of peace depends. It is Czechoslovakia who threatens the peace like the sword of Damocles.[2] We do not know what will happen. But you are aware, gentlemen, that, in case something happens there, Germany will not be able to be disinterested. As long ago as May it became manifest that raving individuals of Czechoslovakia thought the time had come to provoke Germany while hoping that such provocation would start a world war, in which one side was probably to consist of France and England, Russia, America as the main forces, with Germany, perhaps assisted by small countries interested in areas of Czechoslovakia, on the other side. They hoped to catch just the last moment when conditions were still favorable enough to overwhelm Germany. We have not been provoked, and probably the other side also was too anxious for peace after all to allow further provocation. There can be no doubt that England does not wish war nor does France. As to America, there is no certainty on this question. The economic situation of America is hopeless. Therefore the Americans might hope to do big business again by providing all the munitions for the enemies of Germany, while not themselves actively intervening for the time being, but by dispatching many airmen, at least as volunteers.

The Jew furthermore agitates for war all over the world. So much is clear—anti-Semitism has risen now in every country as a logical consequence of the excessive increase of the number of Jews in these countries, and the Jew can expect salvation only if he succeeds in letting loose a general world war. If I mention the Jewish agitation for war, I have a good reason to do so, since the Jew who dominates the bulk of the world press is in a position to use it for psychological propaganda.

With regard to England, too, we have to acknowledge the existence of some, I don't want to say, readiness for war, but of a certain feeling of the unavoidability of war which is widespread. To be added is the fact that wide circles in England take this stand—the last thing we are prepared to bear was the incorporation of Austria, but we are not ready to allow any further en-

[1] A pioneer in German aviation and aircraft production who died 1 July 1938.

[2] For further information concerning the annexation and invasion of Czechoslovakia, see section VI D, this volume.

largement of Germany's power. Beyond this they fear that once we have pocketed Czechoslovakia, we will attack Hungary, the Rumanian oil wells, etc. Moreover, since there are democratic countries on the one hand and authoritarian ones on the other there is enough inflammable matter [Zuendstoff] in the world anyway. When, how, and where this inflammable matter will explode, no one among us can say. It may happen within some months, but it may also take some years. At present the situation is this that Czechoslovakia has promised the Sudeten Germans to meet them halfway. I am convinced that they will satisfy no more than some of their unimportant demands. Such action on their part would probably suit our policy best, since in this case we could put the entire responsibility on England because she has engaged herself so deeply in this business.

Briefly, gentlemen, this is what is happening on the political plane. In this circle, however, we have less to do with politics. I told you these things only in order to provide some background. What we have to discuss are the conclusions which have to be drawn, especially with regard to the air force. Everywhere we observe indeed immense preparations for mobilization, and I expect nobody to become frightened to death. If I judge the preparations for mobilization which are undertaken by other nations by their press publications, in which these countries, I dare say, shoot their mouth off, one might feel inclined to get the jitters. But if they write there: "England is to produce within the next year so-and-so many thousands of first line planes of which so-and-so many will be ready in a month, France will build this and that, Russia is now again to produce another 100,000 planes and to train so-and-so many airmen," then think of the difficulties which we have to overcome and translate what we have into a democratic system, and then you will be able to make a correct guess. I am perfectly convinced, gentlemen, that what we can produce of new goods within a year, England is able to produce with the utmost pains in 2, perhaps 3 years. This is how I judge the situation, taking into consideration the establishment of factories, etc.

You heard tall stories about the English shadow industry.* But what happened in fact? These people have not even got ready their existing industry for [full] production, let alone the erection of shadow industry, the essence of which is to be non-operative today, but to start [production] tomorrow. And how far have they gone with their second great project for the motor

* In 1936 the British Air Ministry announced the existence of a so-called shadow scheme, the essential feature of which was the construction of new, decentralized factories for the production of airplane motors and parts. Further information is in *History of the Air Ministry* by C. G. Grey, (George Allen-Unwinn, Ltd., 1940).

or plane industry which this automobile king, Nuffield, has set up? The latest report is that this honorable Lord now has made up his mind, and almost decided where he will build this shadow industry, and therefore in the best possible case has chosen its location. You know how much it takes to build a big factory and I think it cannot be done in such a hurry. If on the one hand they introduce the 40-hour week or even go down to 35 hours a week, and on the other hand we are working 10, 11, or 12 hours a day instead of 8 hours, then this discrepancy must at the end favor the man who works longer, and work is what matters for results.

But still we have to keep in mind that from the long-term view these people, too, certainly will have some results, and above all, that England and France do not stand alone on the opposite side, but are always in a position to draw upon the immense reservoir for raw materials in America.

If I compare the air forces of the principal countries which may become our enemies (by which I always mean England and France), I am bound to say we have done marvelous work indeed! In 1933 we were at zero; today, 1938, at the end of the year, Germany will have a complete first line strength equal to that of England's strength plus. * * ** Thus we are superior in quantity, too, and as to quality we are equal, even superior. This is an enormous success. It is a miracle that we were able to do it.

And here you deserve great credit, gentlemen, for having succeeded in establishing factories from nothing, and finally producing in them planes and motors which are equal today and partly superior.

Altogether, I consider the German Air Force as being ahead compared with the English as well as with the French. Our task is not only to keep ahead, but also to increase this advantage. For if it comes to the decision, we shall again be opposed by a great multitude, considering the world reservoir at the disposal of the enemies. We have to endeavor, therefore, to increase our advantage, at least in the air, by producing highest quality and at the same time in enormous masses, and I am firmly resolved to take every measure which can and will provide us with permanent superiority in the air.

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Gentlemen, the following is my personal belief: Wherever the conflagration may begin—if then Germany must go to war—this

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* The omission here exists in the original document. See the German version of this document in Trial of the Major War Criminals, *op. cit.*, volume XXXVIII, pages 375-401.

will be the greatest hour of destiny ever since there has been a German history. And the possibility of victory indeed exists. It depends solely on our own power, on the manner in which we mobilize that power, and on the degree to which everybody is resolved to do his bit, convinced as he is that afterwards every individual will experience personally the advantages as well as the disadvantages of the situation. Believe me, gentlemen, once Germany has again lost a new war, it will be no use for you to go and say—Yes, I did not want this war. I was always opposed to it. Moreover I was opposed to the system and never wanted to collaborate with it. You will be dismissed with scornful laughter. You are Germans! The others don't care two hoots whether you wanted to collaborate or not.

We have to see things as they are. The situation being what it is, I believe there is still a 10 to 15 percent possibility for a relatively small scale action, but I am convinced that an 80, 85, or 90 percent chance exists that a greater disaster will occur anyhow, and that we shall have to fight the great battle of which I am not afraid. The only thing that matters is that we shall not collapse again. What matters is that everybody knows—victory can be ours only if we work to an immensely higher extent. We have to replace by men everything the other side has more of in raw materials. This is why the determination of every single German has to be much stronger than that of the enemy in question. And the determination of a nation that knows its very existence is at stake, will necessarily be stronger than that of people who are only half resolved and only go along in the war and the agitation, etc.

Those are not phrases, gentlemen. For God's sake do not understand them as nationalistic blusterings. You would do me a great injustice. I am passionately convinced that everything I tell you is an absolute, gigantic truth. I am truly of the opinion—we shall not be able to save our fatherland unless we stake all our passions.

Believe me, gentlemen, I have now learned during these years, what it means to bear continually the responsibility for a nation. If you are concerned about your work, this is indeed a grave responsibility. But what it means if a man is aware that on his own counsel, decision, judgment, and deliberation finally depends the fate of the nation, this is beyond your imagination. You may be certain, seldom indeed do I have any other thought in my mind. Actually I have to force myself to think of other things; all the time my thoughts are circling around one thing—when will war come? Shall we win? What can we do? I assure you, gentlemen, it is hour after hour that I ponder—what can

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we do? I am well aware that there are still infinitely more things we could do. I am aware that many things are not yet ready. I am aware of the many obstacles in our way, and I am very sorry that I am unable to do everything as quickly as I would like. I wished, however, I might be able to say later on with regard to the task which has been given to me—well, every preparation which a man can make has been made by us. It is a bad thing if a man has to confess, when the battle has started—damn it, you could have done this before. This responsibility rests heavily on me; you may believe me.

This is why I again beg of you with all my heart, gentlemen, consider yourself an industry which has the duty to create an air force, which is most intimately connected with that air force. Do understand that all personal interests take second place. What does your work mean compared with the fate of the nation? What value have, after all, the considerations which will often occur to you—well, what are we to do afterwards, if now the capacities become so much inflated? Would it not be better to go a little more slowly in order to distribute the work better? Such thoughts would prove nothing—don't take this amiss, gentlemen—but an extremely petty character. What does it matter, if there will come a day when you have to manufacture chamber pots instead of planes? That is of no importance if there is only now a chance for Germany to win the struggle.

For if I spoke so far briefly of the fate which would befall us if we lost the war, I may be allowed now to mention what will happen if we win it. Then Germany will be the greatest power in the world. Then it is Germany who dominates the world market. Then will be the hour when Germany is a rich nation. For this goal, however, we have to undertake risks. We have to stake our best. This is why I once again demand of you—all the questions ruminating in your heads, all ideas of external or internal importance, any doubts whether you can obtain higher prices, whether you might make insufficient profits, etc.,—all this is perfectly beside the point. What matters is only this—what is the production of the works; how many motors are being made and in what time, and of what quality are these motors and planes? Only this is important. And even if you know what you are doing now may mean that within three years your firm will collapse, you will have to do it all the same. For if Germany collapses, who will dare to tell me to my face that his shop will go on? Out of the question! If only this fact would be understood by everyone in our economy—although the dictate of Versailles in 1918 [1919] should indeed have been a good teacher to them—and if all would understand that nobody here exists by himself,

but that everybody stands and falls with Germany's existence! It does not matter if someone says—I disapprove entirely of the National Socialist system. I don't care. Let him disapprove, it is still the system which at this moment decides Germany's fate. This is why he has willy-nilly to cooperate. Therefore I repeat once more—only that nation which stakes everything on its armaments and draws all consequences from this will be able to continue its existence.

Gentlemen, I have no reason, and this is gratifying, to complain of the aircraft industry but to praise, to acknowledge, and to thank. You went my way on the whole—although at the start one or the other did not quite catch on—and you did really wonderful work, in some factories quite extraordinary things were done. Thus just with regard to the aircraft industry I have no reason for complaints, thank God. Just this fact permits me to say, especially as it cannot happen in this industry, not for a second and I mean second, would I hesitate—as I proved with regard to another matter—to intervene at once to confiscate at once the whole business in case I should come to the conclusion that he does not understand that he can see the world only from the toilet-seat perspective [Klosettdeckelhorizont] of his own enterprise, and cannot look further. Such a fellow is a ne'er-do-well. That fellow must go. By a stroke of my pen he would lose his business and his property. But as I said before, and I am very gratified to state this once again, that the aircraft industry performed quite excellent work.

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Beyond this, gentlemen, I want you to be perfectly clear, today already, how will you run your business when war comes [im Ernstfalle]. The earlier you can make clear proposals on this to me, the earlier you know yourselves what you want, including the changes in personnel, what people you want to get rid of, and what people you want to have, the earlier you will be in shape, and the less danger there will be of work being held up. If you act in this way, we should be able to apply in time to the Armed Forces District Inspectorates for deferments on the basis of your claims, so that the moment mobilization starts, everything will have been arranged already. You will then be in a position to know—when mobilization starts, so-and-so will be taken away, but you will also know who will replace him. I should like to have this arranged almost by names. I want every man and woman to know that on the first, the second, the third day of mobilization I shall have to do this and that, so that the order of events will not be—the airplane industry will be allotted a certain number out of the bulk of available labor, etc., and

then the allotments will be altered four or five times. No, this will have to be done from the beginning, by names. I want the airplane industry to take again the first place and go ahead by appointing a special employee in each factory who has nothing to do but to make the arrangements for mobilization, so that every shop knows accurately—I shall lose so-and-so, he will be replaced by so-and-so. But with regard to those people who cannot be spared by any means you must apply for deferment already, so that I can order their deferment. If this is being done accurately and executed carefully, you will see what a help that will be. For it is quite clear that there will be a great to do the day of the mobilization, and every man will then have to know what he will have to do. And with regard to juvenile labor, to apprentices, I want you to make your decisions also with regard for the mobilization; it might be advisable to accept already many more apprentices than you would accept normally.

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Gentlemen, I have still one thing to ask. I think it goes without saying that everything which I told you with regard to the political situation and preparations for mobilization has to remain entirely among ourselves. This goes without saying, and I need hardly add anything. I chose the participants for this address in such a way that I am entitled to trust entirely their discretion. I should not like to experience the same disappointment which I had when I invited the German industry to the Herrenhaus, when the contents of my speech were already known in a wider circle the same evening.

Later on I shall confer with some gentlemen in order to receive from them some information on certain things. The aircraft industry is informed. The same applies in general to the airplane motor industry. Here the main task will be to produce the Mercedes 601 in large numbers. As to the BMW, I put great hopes on the future air* * * * as an enormous step forward. Until then the most intensified production of the present type has to be continued of course. Juno 211 also has to be produced with great intensity. Moreover I hope that the motor industry too will not rest content with the fact that they have produced a good motor, but I ask them to prepare and further new developments.

Gentlemen, here again I should like to give some advice. In our branch, in aviation and production for the needs of an air force, you cannot attain much without some imagination. This is the sphere where many new developments and inventions can

* Id.

be expected to appear and where most thinking occurs. I therefore request that here one must not be easily discouraged and say, but this is impossible. Rather, you ought to travel into thin air over and over again and tell yourselves—here it is, where there must be room for imagination, where my ideas must go on a long voyage. I hope, this is my private wish and dream, a miracle will happen. I still hope that I am shown some day a motor or a weapon or a plane or a bomb, the qualities of which will be fantastic. I still hope for something which has the same importance in the struggle with the enemy as had the needle gun [Zuendnadelgewehr] in the war of 1870–71. If I had such a needle gun (to use a metaphor) against an enemy who has nothing but muzzle-loaders, our advantage naturally would be great. With these remarks I wish to express my sympathy with boldness in experimenting. I still am not yet in the possession of the stratosphere bomber which overcomes space at a height of 25 and 30 km. This problem has not been solved yet in the sense that practical use is possible. I still am lacking rocket motors which would enable us to effect such flying. I still am missing entirely the bomber which flies with 5 tons of explosives as far as New York and back. I should be extremely happy to have such a bomber so that I would at least be able to shut up somewhat the mouth of the arrogant people over there. Thus you see, gentlemen, there is still a large field for your work, and what matters is only how high you aim, you will have success in the same proportion.

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TRANSLATION OF DOCUMENT EC–278
PROSECUTION EXHIBIT 3768

GOERING DIRECTIVE CONCERNING THE APPOINTMENT OF PLENIPOTENTIARIES GENERAL FOR FIELDS OF SPECIAL IMPORTANCE, 16 JULY 1938

[Stamp] Top Secret

[Handwritten] 124

Berlin, 16 July 1938

Minister President Field Marshal Goering,
Plenipotentiary for the Four Year Plan
St. M. Dev. 1008 Rs. 40 copies, 3d. copy
[Stamp] WStb [Economic Staff] I
21 July 1938
File No. 1
No. 2219/38

[Stamp] Armed Forces High Command
21 July 1938
WStb

[Handwritten] 21 July [Two illegible initials]

The political situation, particularly the necessity for speeding up the execution of the Four Year Plan and the readiness for mobilization compels me, regardless of all objections to appoint so-called Plenipotentiaries General for various fields of special importance; thus, for example, I have already appointed Brigadier General von Hanneken as Plenipotentiary General for Iron and Steel Production and Allocation.* The Plenipotentiaries General act on my direct orders and therefore are covered by the full power I have been given by the Fuehrer. They are entitled to take any measures in the special fields assigned to them and to provide all authorities and offices with the instructions necessary for this. These instructions are to be carried out immediately, for they are given on my orders. I therefore request all Supreme Reich Authorities to see that the Plenipotentiaries General not only meet with no resistance, but that every possible support is given them.

The fields for which I will appoint Plenipotentiaries General, and the persons in charge of them will be announced in the near future. Objections to instructions, orders, and measures of the Plenipotentiaries General are to be addressed to me. I emphasize, however, that these objections will not have any postponing effect

* Among other Plenipotentiaries General later appointed was Carl Krauch, Plenipotentiary General for Special Questions of Chemical Production. See the "I. G. Farben Case," United States *vs.* Carl Krauch, et al., volumes VII and VIII, this series.

whatsoever and that the instructions, orders, and measures issued are to be put into operation immediately regardless of contrary opinions.

Only thus will it be possible to execute the orders of the Fuehrer. The Plenipotentiaries General are acting under my immediate orders, or under those of my permanent deputy, and they are, therefore, in their field not subject to any instructions from other authorities. Any other functions beyond this order are not touched.

I request you to inform the subordinate offices about these instructions immediately.

Signed: GOERING

[Seal]
Minister President
Field Marshal Goering,
Plenipotentiary for the
Four Year Plan

Certified:
[Signed] KRUEGER
Admin. Assistant

To:

(*a*) The Reich Ministers.

(*b*) Prussian Minister of Finance.

[Handwritten] To the files 11b Organization [File]: Chain of Command [Spitzengliederung]

TRANSLATION OF DOCUMENT NG-5328*
PROSECUTION EXHIBIT 3908

THREE CIRCULAR LETTERS OF DEFENDANT SCHWERIN VON KROSIGK, REICH MINISTER OF FINANCE, CONCERNING REICH DEFENSE AND THE 1938 BUDGET

1. Circular Letter of 5 July 1938, Reproducing Parts of Goering's Circular Letter of 18 June 1938

The Reich Minister of Finance — Berlin W 8, 5 July 1938
A 1301 38 – 73 I Secret Reich Matter — Wilhelmplatz 1/2

[Stamp] Secret Reich Matter

[Handwritten] Su 1010 280 V

Subject: Circular letter of the Minister President, Field Marshal Goering, Plenipotentiary for the Four Year Plan, of 18 June 1938, St. M. Dev. 921 Secret Reich Matter re Defense of the Reich (our No. W 3011–568 I, Secret Reich Matter)

* Photographic reproduction of the circular letter dated 1 September 1938 (pg. 508), which is a part of this document appears in appendix A, volume XIV.

[Handwritten] V Settled through Su 1010–279 V therefore for the files. [Illegible initial]

The circular letter contains among other things the following details which will be of financial consequence for the Reich departments and the Laender:

"The new directives given by the Fuehrer for the development of the Defense of the Reich require a strict concentration and the combined efforts of all our means. The task placed before us includes numerous individual tasks concerning the activities of almost all authorities and organizations in the field of economy and administration and will require an especially close cooperation with the Party.

"The task assigned to us is so big that it can only be accomplished if all other plans in the fields concerned of the Wehrmacht, economy and administration are absolutely subordinated to this superior task. Only if all our thinking and all our endeavors are concentrated there and if all existing material and all labor is devoted to this task can it be accomplished. It is therefore imperative that all planning and all projects in those fields which are connected with the development of the defense of the Reich will be reexamined to the effect whether they can go on alongside with the large tasks or whether they have to be postponed, either entirely or in part until these great tasks are finished. It is quite evident that a people which is making the greatest efforts in order to safeguard its own existence cannot, at the same time start or continue all the other projects which would further its well-being or its development. These postponed tasks can later on be accomplished with much better results, if those tasks which are to guarantee the existence of the nation against all eventualities, are carried through speedily and as well as possible. Those tasks which even with regard to the new situation are not to be interrupted, have to be examined to the effect whether any changes can be effected or whether they cannot be brought in accordance with the most important tasks of the Reich defense, perhaps by changing the plans altogether or by giving preference to individual parts of already existing plans or projects and by completing them in preference to other parts of the total project. Finally new tasks will have to be accomplished supplementing the program for the defense of the Reich. The efforts made in order to carry out the Fuehrer order must not stop at preparatory work directly serving the defense against enemy attacks, the development of the defense of the Reich will, within the time at our disposal, also include additional provisions which will only indirectly further the

interests of the defense of the Reich, but which are nevertheless, just as important.

"Construction work has a special importance among all the tasks to be accomplished; especially at the western border extensive constructions must be started with the greatest possible speed. Since there are already great tensions in the construction market, it is imperative that all other construction projects be rechecked as to their urgency and as to whether they can actually be carried through. The main idea is that next to those constructions serving the defense of the Reich especially those projects are to be continued, which, like these were also started upon order of the Fuehrer. They are especially the construction included in the new plans for Berlin, Munich, and Hamburg as well as the buildings for the Reich Party Congress. In the case of these buildings only some changes regarding time will have to be considered insofar as they are unavoidable with regard to the interests of the Reich defense. On the other hand, all other public buildings as well as all private building projects must on principle be postponed for the time being, the only exceptions may be projects, the special urgency of which would have to be proved—for example, housing projects for workers, small apartments, etc., if they are not detrimental to the interest of the defense of the Reich. I request the departments concerned to take the necessary steps. I am in complete agreement with the Reich Minister of the Interior in his judgment stated in his letter of 10 June 1938 (*V a 475/38*) concerning the plans of many communities for large-scale rebuilding; neither is it the wish of the Fuehrer that all communities are to imitate the cities, for which he had ordered a special development from the point of view of planning and building.

"Even in Austria where a great deal has to be done after all that has been neglected in the past also in the field of construction we will have to see, that, at present, only the most urgent construction projects are carried through which cannot be postponed even under the strictest considerations. For this reason I request the Reich Minister of the Interior especially to furnish the communities and community associations with the necessary directives.

"The fact that there will be in future increased restrictions on the distribution of raw materials, especially with regard to the distribution of iron, and that there will also be restrictions in the labor market, will facilitate the practical execution of the aforementioned points of view. Due to the fact that the tasks serving the defense of the Reich have first priority, all

available raw materials and all labor will be allocated to those tasks. Since especially the iron quota of the Wehrmacht will have to be considerably increased, and on the other hand the increase in the production of steel will soon reach its limits the present output being the largest in the world, it cannot be avoided that other iron quotas have to be cut down to a certain extent. This will also affect the building market. I expect all authorities concerned to adapt themselves to the new situation and, through cutting down within their sphere of work to contribute as much as they can towards our goal to carry through the order of the Fuehrer. It is out of the question that these necessary measures will loosen up, before the projects of the defense of the Reich are completed; I therefore request not to make any attempts in this direction. The new situation becomes clearly obvious through the fact that not even the iron quota of the Four Year Plan can be maintained at its former level although it was already rather too small than too large. According to the new tasks set by the Fuehrer there will also have to be some changes in the Four Year Plan; the requirements for the defense of the Reich will be given first preference, and materials will be utilized to the last."

Signed: COUNT SCHWERIN VON KROSIGK

Copy for your information. Please check the information of the Highest Reich Authorities as soon as it is received and forward it, if necessary with corrections and supplementation to Department I, Section 1

[Signed] COUNT SCHWERIN v. KROSIGK

To the departments in the building, [Finance Ministry Departments] the Referenten of the Budget; the budget expediters and Referat I, 16a (innermost circle) [engster Kreis].

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2. Circular of 5 July 1938 to the Reich Ministers, Concerning the Relation of Goering's Circular of 18 June 1938 to Building Projects

The Reich Minister of Finance
A 1301 38—73 I Secret Reich Matter

Berlin, W 8, 5 July 1938
Wilhelmplatz 1/2

[Stamp] Secret Reich Matter

Subject: Defense of the Reich and Carrying out the Reich Budget for the Fiscal Year 1938

In his circular letter of 18 June 1938, St. M. Dev 921 Secret Reich Matter regarding the defense of the Reich, the Plenipoten-

tiary for the Four Year Plan, Minister President, Field Marshal Goering, pointed out the absolute priority of the measures ordered by the Fuehrer and Reich Chancellor with regard to the defense of the Reich over all other projects especially in the field of construction.

The execution of the newly ordered measures for the defense of the Reich which were not calculated in the Reich budget for 1938 are making additional requirements on the financial power of the Reich to such an extent that the funds cannot be raised unless, in carrying through the Reich budget for 1938, all Reich departments are guided by the basic idea of the circular letter and definitely postpone all tasks which are not absolutely necessary in order to place all funds thus becoming available at the disposal of the defense of the Reich.

In the field of building a great number of building projects planned for the present fiscal year in the Reich budget for 1938 cannot be carried out at all in view of the priority list drawn up with regard to the shortage of raw materials and labor; in other cases the speed of completion will be considerably reduced. As a consequence of these compelling conditions a large portion of the funds calculated in the Reich budget for 1938 for construction projects will therefore not be used. I must use these funds, as much as possible for the financing of the new projects connected with the defense of the Reich.

According to the circular letter of 18 June 1938 it is anyway necessary to reexamine which of the construction projects planned for the fiscal year 1938 will not be carried through at all; which projects will be changed essentially with regard to the projects connected with the defense of the Reich and which projects will have to be slowed down. I request you to furnish me with the result of this re-examination of 15 August 1938 by means of a list (separately for each individual building project and mentioning the place where it is entered in the books) and, at the same time to give me these sums of the Reich budget 1938 which will thus be unused and can be deducted.

The financing of the new measures for the defense of the Reich furthermore requires that also outside of the field of building all expenses which are not absolutely necessary are avoided and that all possibilities for saving are used. I therefore request to check also the other expenses provided for in your budget and to inform me, also by 15 August 1938, which sums can be saved and can definitely be taken off the budget. It is quite obvious that in view of the existing circumstances I will have to be even more strict as before with regard to all applications for approval of extra expenses and for granting the last 10 percent and that I will have

to make my approval dependent most of all on the condition that the expense is unavoidable in the interest of the defense of the Reich.

[Signed] COUNT SCHWERIN V. KROSIGK

To—The Reich Ministers

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3. Circular of 1 September 1938 to the Reich Ministers, concerning the Reich Defense and the Carrying Through of the Reich Budget for the Fiscal Year 1938

The Reich Minister of Finance
A 1301 38—97 I Secret Reich Matter

Berlin, W 8, 1 September 1938
Wilhelmplatz 1/2
96 copies, 88th copy.
[Handwritten] Su 1010—282—V

[Stamp] Secret Reich Matter

[Stamp] Express Letter

Subject: Reich Defense and the Carrying Out the Reich Budget for the Fiscal Year 1938

The development of the defense of the Reich ordered by the Fuehrer necessitates measures of an extraordinary character. My circular letter of 5 July 1938—A 130138–73 Secret Reich Matter which was issued following the basic instructions of the Plenipotentiary for the Four Year Plan of 18 June 1938—St. M. Dev. 921 Secret Reich Matter and which stated the prerequisites for the solution of the financial questions, has not met with the expected understanding of the various departments. For this reason decisive measures will have to be taken in order to guarantee priority to the Reich defense.

Presently, the carrying out of public construction projects is in the foreground, insofar as they are not subject to the orders of the Fuehrer.

In agreement with the Minister President, Field Marshal Goering, the Plenipotentiary for the Four Year Plan, I herewith cancel—*effective immediately*—all funds for building projects which were first calculated in the individual plans of the civilian departments for the fiscal year 1938 and which have not yet started. No exceptions will be granted; in agreement with the Plenipotentiary for the Four Year Plan I shall grant funds only in cases where the interests of the Reich defense demand it.

By "starting" a building in the meaning of the aforementioned measure, the first breaking of the ground is decisive and not the

procuring of building material and the lot or the completion of the construction plans. To what extent building projects which are already under way are to stop or to slow up over and above the above-mentioned order, in the interest of concentrating all financial sources on the defense of the Reich, will, for the time being, be left to the responsible judgment of the departments; I reserve, however, the right to make the decision in individual cases.

I firmly expect that this problem will be examined with the greatest of speed and will be given priority over all other plans, even those seeming especially urgent.

It is also imperative to economize in other fields than that of building. Some of the answers to my circular letter of 5 July 1938 show me that some of the departments are most cooperative in adapting themselves to the extraordinary requirements. Since, however, the funds offered are in total not sufficient I must reserve the right to take further steps in this field, too. *I also want to ask the departments not to make any applications for granting the last 10 percent and for furnishing in future funds over and beyond the budget,* since I will not be able to grant any funds except for the defense of the Reich.

[Signed] COUNT SCHWERIN v. KROSIGK

To the Reich Ministers

Copy sent for your information following up my letter of 5 July 193838–73 Secret Reich Matter 1301

[Signed] COUNT SCHWERIN v. KROSIGK

To the Minister President, Field Marshal Goering,
Plenipotentiary for the Four Year Plan

TRANSLATION OF DOCUMENT EC–419
PROSECUTION EXHIBIT 1165

LETTER FROM DEFENDANT SCHWERIN VON KROSIGK TO HITLER, 1 SEPTEMBER 1938, CONCERNING THE FINANCIAL SITUATION OF GERMANY, THE FINANCING OF ARMAMENT, AND THE CLARIFICATION OF FOREIGN POLICY*

Final Draft [Reinentwurf] (Copy)

Berlin, 1 September 1938
Secret Reich Matter

D.R.d.F. [The Reich Minister of Finance]

My Fuehrer:

There has been no possibility to explain verbally to you the financial situation of Germany, although I asked for this oppor-

* This document was introduced in the IMT trial as USA Exhibit 621. The full German text appears in Trial of the Major War Criminals, op. cit., volume XXXVI, pages 492–498.

tunity. I consider it my duty to describe to you the present situation and for further explanations and additions I am at your disposal at any time.

1. Since the assumption of power the definite policy has been followed to finance the large nonrecurring expenditures for the first labor employment program and for the rearmament by means of loans. Insofar as this was not possible through the normal use of the money market and investment market, that is, from the annual increments in savings in Germany, the financing was arranged through discounting bills of exchange (trade bills of exchange and Mefo bills of exchange [Arbeits- und Mefowechsel]) at the Reich Bank, which means the creation of [new] funds. [Geldschoepfung].

Such creation of [new] funds did not endanger the currency as long as the increased circulation of money was offset by corresponding increase of production. When, at the turn of 1937–1938, the state of full production was reached, the system of Mefo bills of exchange, which at that time amounted to 12 billion RM, was abandoned, because this system by now would have resulted in inflation. Also it could be abandoned as the increasing income from taxes and the growing savings offered the possibility to cover the normal expenditures through taxes and loans. The income from federal taxes, from 1932 to 1937, increased from 6.5 billion to 14 billion. During the same period, armament expenditures rose from ¾ billion to 11 billion. The development of the Reich debt is as follows:

	In billion RM	31 December 1932	30 June 1938
Funded debt	---	10.4	19.
Current debt	---	2.1	3.5
Debt which has not been made public (Trade bills of exchange and Mefo bills of exchange)	---	---	13.3
		12.5	35.8

This shows that the Reich debt has almost tripled.

Provisions were made to cover the armament expenditures for the year 1938 (the same amount as in 1937) as follows:

5 billion from the budget, that is, taxes
4 billion from loans
2 billion from 6 months treasury notes (which means postponement of payment until 1939)

Total 11 billion

Income from taxes, and the investment market offered the security that this program would be maintained within its limits.

2. During 1938 a basic change occurred.

a. The armament expenditures increased to 14 billion caused by the retaking of Austria, and fortifications in the West, and the increased tempo of armament. I have provided for cover as follows:

6 billion from the budget, that is taxes
6 billion from loans
2 billion from 6 months treasury notes (which means postponement of payment until 1939)

—

Total 14 billion

The increase from 5 to 6 billion charged to the budget is covered by the increase of corporation taxes, from 30 to 40 percent, and the transfer of certain tax incomes from the communities to the Reich. The amount of 6 instead of 4 billion from loans can be obtained if the investment market is made unavailable for all other purposes, especially the building of homes; corresponding measures have been taken in collaboration with Minister Funk.

b. It was intended to float another loan in September (the last loan was floated in April). This is very necessary because the increasing cash expenditure for the Army (900 million in August, 1200 million in September) have completely exhausted the cash balances of the Reich. The cash resources will be exhausted during September; a statement regarding the proceeds resulting from a loan is not necessary, as the securing of funds by means of pure printing of currency is out of the question.

c. The intended floating of a new loan is faced with the difficulty, that during the last weeks—since the middle of July and in an especially alarming degree—Reich obligations have appeared on the market and had to be absorbed by the Reich. If these obligations would not be taken up, government issues would drop in value; because of it the floating of future loans by the Reich would be difficult or impossible. Up to now, 465 million RM's had to be absorbed.

d. The reasons for the liquidation of Reich bonds is found in—

(1) The necessity of industry to finance itself.
(2) A larger inventory of stocks (to safeguard against any temporary shortages of materials).
(3) The hoarding of money caused by the fear of the limitation of credit.
(4) In the conversion of Reich obligations into material values caused primarily by a war—and inflation psycho-

sis. The inflation psychosis is strengthened due to the wage and price increases since 1937 which now are very evident in the western territories. The war psychosis originates from the gossip by all circles of the people that war would begin on October 1.

3. The change in the situation, therefore, is due to the fact that we are steering towards a serious financial crisis, the forebodings of which, have lead already abroad to detailed discussions of this weak side in our economic preparations and to an apprehensive loss of confidence domestically.

To regain the confidence, it is most important to eliminate the inflation psychosis. For this purpose, the authorities should make declarations and give explanations in accordance with the following outline:

a. Increase of the Reich debt is not inflation. The floating of loans has always been and is also now necessary for large, once-occurring national tasks. Even if the Reich debt would rise to 50 billion, it would only represent two-thirds of the annual national income and the annual service [Schuldendienst] of the debt would not be as much as the unemployment compensation payments during the year 1932.

b. The printing of money without a corresponding production increase is self-deception. The Third Reich, therefore, will not choose the way of inflation but will continue to float loans, the subscription to which is as much a patriotic duty as it is the safest investment.

c. The hoarding of money is not only a crime against the nation as a whole, but also it is foolishness.

d. A planned regulation and distribution of government expenditures will see to it that prices and wages are not forced up by government offices competing against each other.

e. The over-employment in public offices has caused idleness, double work and frictions. A thorough simplification will remedy this.

If you, my Fuehrer, would inform the German people along these lines already at the annual Party Congress, it would put a stop to the inflation psychosis and it would be an important step for the possibility to float further loans and with it, would stabilize our financial policy.

4. The second step is to clarify our foreign policy. As every war in the future will be fought not only with military means but also will be an *economic war* of greatest scope, I consider it my unavoidable duty to present to you, my Fuehrer, in fullest truthfulness and sincerity my deep anxiety for the future of Germany,

which is based on my knowledge of the economic conditions of our country and also those of the outside world.

Whether or not the war stays localized in the event of a showdown with Czechoslovakia depends mainly on *England.** Judging from my knowledge of England and the English people, gained over many years, the now repeatedly expressed attitude to take action is *no bluff,* which fact undoubtedly can be discerned in their careful English way of expression. Even if Chamberlain and Halifax would not want war, the warmongers and possible successors, Churchill-Eden, stand behind them.

The fact that England is not ready for war militarily, does not prevent England from entering it. For she possesses two great trump cards. One is the soon expected active participation of the United States of America in the war. At present, two tendencies prevail in the United States; one is a propaganda of hate against Germany of the greatest scope, mainly supported by Jewish circles, and the other is the continuing economic crisis, the solution to which can be found only in a European war because of the failure of every experiment tried by Roosevelt. American industry now only occupied to the extent of 25 percent, would at once be converted into a war industry of unimaginable production capacity, altogether different from 1914–18.

The second trump card is, Germany shows financial and economic weaknesses, although she has a head start militarily. Germany's self-sufficiency for the required war needs is only in the early stages. In my opinion, it is Utopia to think that we can secure the necessary raw materials with the importations from the Southeast [of Europe] and by the exploitation of our own resources. Economically, we are in a position which corresponds to Germany's situation in 1917. The Western powers would not run against the West Wall but would let Germany's economic weakness take effect until we, after early military successes, become weaker and weaker and finally will lose our military advantage due to deliveries of armaments and airplanes by the United States. But also a decisive point is the attitude and morale of the people. On it depends the spirit with which the army will fight. It is difficult for a nation that already experienced and lost a war within a generation—to raise the inner strength, morally and physically which is so vital to the victory of a new war. When the restitution of our military freedom, the occupation of the Rhineland and liberation of Austria was involved, the whole nation was deeply convinced of our rights and the necessity of our actions. But the people's attitude towards the

* This letter, dated 1 September 1938, was written at the time of the events leading up to the Munich Agreement of 29 September 1938. See the documents and testimony reproduced in section VI D (Czechoslovakia) this volume.

933764O—51——35

Czech situation is different. Should this problem again result in a world war, then the German people's confidence in you, my Fuehrer, would be shaken in its roots; because it believes you will never put our nation in the same situation as in 1914–18. And it would not be able to bear for very long the sufferings of war, large and small, such as the rationing of fats, the bombing attacks, the loss of husbands and sons.

Most important is however: *"Time works in our favor."* (1) The increase in power which we gain each month and each year through the completion of our military and primarily our economic preparations, is considerably greater than the added strength which the Western Powers gain from their own rearmaments. (2) Certain powers inside France, growing month by month, try to break the alliance with Czechoslovakia, although I am of the opinion that France, probably with clenched fists and a heavy heart, would now fulfill her duty as an ally in order not to lose face as a major power and to keep her national honor. (3) In America a reaction against the Jewish propaganda of hatred is noticeable; this reaction requires time to develop. Each improvement of the economic conditions in the United States of America reduces the urge to find a solution of her difficulties in a war and it strengthens the prevailing tendency of the broad masses of the American people to stay aloof from European quarrels.

We therefore can only gain by waiting. For this reason, the fanatical desire of the Communists, Jews, and Czechs, is to involve us now in a war because they see in the present situation the last possibility to cause a world war out of the Czech problem and consequently the possibility to destroy the hated Third Reich. I am firmly convinced that, if Germany awaits her hour with the calmness of the strong against all provocations and completes her armaments in the meantime and especially creates a balance between military and economic preparations which now does not exist, and the creation and publicizing of a demand which is convincing in its righteousness to the German people and the outside world—the demand, for instance, for the right of self-determination by the Sudeten Germans would weaken any slogan coined by England to take her people into war against Germany—would put Czechoslovakia in the wrong before the world, the day will not be far off when the final *coup de grace* [Gnadenstoss] can be dealt to the Czechs.

I am, my Fuehrer, in steadfast loyalty
Your very devoted,

(SCHWERIN-KROSIGK)

PARTIAL TRANSLATION OF DOCUMENT 1301-PS
PROSECUTION EXHIBIT 971

MINUTES OF A CONFERENCE IN GOERING'S REICH AIR MINISTRY OFFICE, 14 OCTOBER 1938, CONCERNING HITLER'S ORDER "TO CARRY OUT A GIGANTIC PROGRAM COMPARED TO WHICH PREVIOUS ACHIEVEMENTS ARE INSIGNIFICANT," THE ASSIMILATION OF CZECHOSLOVAKIA, THE JEWISH PROBLEM, AND OTHER MATTERS*

[Handwritten] Top Secret!

CONFERENCE AT FIELD MARSHAL GOERING'S AT 1000, 14 OCTOBER 1938, IN THE REICH AIR MINISTRY

[Handwritten] To the files
[Illegible initial]

Field Marshal Goering opened the session by declaring that he intended to give directives about the work for the next months. Everybody knows from the press what the world situation looks like and therefore the Fuehrer has issued an order to him to carry out a gigantic program compared to which previous achievements are insignificant. There are difficulties in the way which he will overcome with utmost energy and ruthlessness.

The amount of foreign exchange has completely dwindled on account of the preparation for the Czech enterprise and this makes it necessary that it should be strongly increased immediately. Furthermore, the foreign credits have been greatly overdrawn and thus the strongest export activity—stronger than up to now—is in the foreground. For the next weeks an increased export was first priority in order to improve the foreign exchange situation. The Reich Ministry for Economics *should make* a plan about raising the export activity by pushing aside the current difficulties which prevent export.

These gains made through export are to be used for increased armament. The armament should not be curtailed by the export activity. He received the order from the Fuehrer to increase the armament to an abnormal extent, the air force having first priority. Within the shortest time the air force is to be increased five fold, also the navy should arm more rapidly and the army should procure large amounts of offensive weapons at a faster rate, particularly heavy artillery pieces and heavy tanks.

* All of the minutes of this conference are reproduced here. The document is a "partial translation" in that Document 1301-PS was a compilation of numerous documents which were introduced in the trial before the IMT as USA Exhibit 123. For the original German of all the documents in Document 1301-PS, see Trial of the Major War Criminals, *op. cit.*, volume XXVII, pages 122-169.

Next to it, armament through factory products especially fuels, rubber, gun powder, and explosives are to be moved into the foreground. Next to those, the accelerated construction of highways, canals, and especially railroads.

To this comes the Four Year Plan which is to be reorganized according to two points of view.

In the Four Year Plan all the constructions which are in the service of armament are to be promoted to first place and in second place all the installations are to be created which really spare foreign exchange.

The substitutes produced by the Four Year Plan are to be brought rapidly into circulation. The Reich Ministry for Economics and the other agencies should make suggestions by the beginning of November for rapidly increasing the introduction of the substitutes. The import of materials for which we have substitutes has to be drastically curtailed.

Field Marshal Goering enlarged then upon the main problem of the session—how these requirements can be fulfilled.

He is faced with unheard of difficulties. The treasury is empty. The industrial capacity is crammed with orders for many years. In spite of these difficulties he is going to change the situation under all circumstances. Memoranda were of no help. He desires only positive proposals. If necessary, he is going to convert the economy with brutal methods in order to achieve this aim. The time has come when private enterprise can show whether it has a right for continued existence. If it fails, he is going over to state enterprise without any regard. He is going to make barbaric use of his plenipotentiary power, which was given to him by the Fuehrer.

All the wishes and plans of the State, Party, and other agencies who are not entirely in this line have to be rejected without pity. Also the ideological problems cannot be solved now. There will be time for them later. He urgently cautions against making promises to the workers which cannot be kept by him. The wishes of the Labor Front fade entirely into the background. Industry has to be fully converted. An immediate investigation of all productive plants is to be initiated in order to determine whether they can be converted for armament and export or whether they are to be closed down. The problem of the machine industry has the first consideration in this respect. There is no place for printing and laundry machines and other machines of that kind, they all have to produce machine tools. In the field of machine tools the priorities of the orders are to be investigated, and wherever possible, increase in productive capacity is to be

introduced. It follows without saying that work has to be conducted in three shifts.

It remains now to decide who is going to carry out this task—the state or the self-administering industry [Selbstverwaltungswirtschaft]. He had requested a proposal from Director-General Zangen* concerning the methods to put these plans into realization. He warns all agencies, particularly the Labor Front, price controller, etc., from interfering with these proposals in any way. He is going to proceed ruthlessly against every interference on the part of the Labor Front. The Labor Front would not receive raw materials and workers for its tasks any more. Similarly all other Party requirements have to be set aside without consideration. Foreign workers can continue being employed except in the particularly secret sections of the enterprise. At the present time the plants should not be burdened with unnecessary demands, such as athletic fields, casinos or similar desires of the Labor Front. Measures proposed by the Labor Front have to be submitted to him for approval.

Raw materials and power are to be subjected to accurate management. Similarly, the distribution of men has to be organized in an entirely different way than it has been done until now. The retraining did not function; all agencies failed. The recommitment of the youth into the industry will be organized by him on a very large scale. Large state apprenticeships are to be created; besides, the plants will be obliged to hire a certain number of apprentices. A retraining of hundreds of thousands of people will have to take place. Much more work will have to be performed by women than until now. Above all, the young women have to be employed much more. Work periods of 8 hours do not exist any more; wherever necessary, overtime is to be performed, double and triple shifts are a matter of course. Where the workers protest, as in Austria for example, Field Marshal Goering will proceed with forced labor; he will create camps for forced labor. The Labor Front should not carry false special ideas among the workers. It is a fact that one generation has driven the cart into the mud through the mutiny of the workers and by being guilty of not having shot these workers on the spot. Therefore we had to put the thing in order again.

Much is to be done at once in the field of transportation. The Ministry for Transportation should submit a request about the construction of rolling stock and about other requirements. The canal [Stichkanal] near the Hermann Goering Works is particularly important. It cannot continue that the armed forces inter-

* Zangen was chairman of the Reich Group Industry (Reichsgruppe Industrie).

fere with the rolling stock [wagenpark]. If that will continue, he will make a decision because it is impossible that the people should starve on account of it.

In agriculture it is of importance to employ foreign workers. Similarly the problem of the agricultural machines has to be tackled. Of particular importance is the erection of storehouses.

The Sudetenland has to be exploited with all means. Field Marshal Goering counts on a complete economic assimilation [voellige wirtschaftliche Angleichung] of the Slovaks. Czechs [Bohemia-Moravia] and Slovaks [Slovakia] would become German dominions [deutsche Dominions]. Everything at all possible must be taken out. The planning of the Oder-Danube Canal has to be speeded up. Especially, searches for oil and ore in Slovakia are to be undertaken by State Secretary Keppler.

In the second part of his discussion Field Marshal Goering took up the Jewish problem. The Jewish problem had to be tackled now with all methods, because they have to get out of the economy. However, the wild bustle of commissioners [wilde Kommissar-Wirtschaft] as it developed in Austria has to be prevented under all circumstances. These wild actions have to cease and the settling of the Jewish problem should not be regarded as a system of providing for inefficient Party members. Thereupon Ministerialrat Fischboeck was allowed to speak. He revealed that in the beginning there were 25,000 commissioners in Austria. Today there are still 3,500 who are useless almost without exception. In Austria the Party is of the opinion that Aryanization is a duty of the Party and that it is connected with the recompensation of the old Party members.

In Austria there is still a total of 2 billions [reichsmarks] of Jewish property. The large enterprises are being bought up by the Kontrollbank. It is difficult to oust the Jews from the small industrial enterprises.

Field Marshal Goering took a strong stand against the opinion that the Aryanization is the duty of the Party. It is the duty of the State alone. However, he could not release foreign exchange for shipping away the Jews. In an emergency situation ghettos should be erected in the individual large cities.

State Councillor Schmeer cautioned against more lenient methods in the fight against the Jews. Jewish labor units should be established. Then the people would emigrate of their own accord. State Councillor Neumann warned and expressed the opinion that one should use more caution in this matter, particularly in Austria.

Thereupon the meeting was quite surprisingly closed by Field Marshal Goering without giving everyone an opportunity to speak and without making decisions.

PARTIAL TRANSLATION OF DOCUMENT NI-1495
PROSECUTION EXHIBIT 2307

EXTRACTS FROM DEFENDANT PLEIGER'S MEMORANDUM TO THE REICH MINISTRY OF ECONOMICS, 16 FEBRUARY 1938, REQUESTING AN INCREASE IN CAPITALIZATION OF THE HERMANN GOERNG WORKS FROM RM 5,000,000 TO RM 400,000,000 AND STATING JUSTIFICATION THEREFOR

Copy

Reichswerke Aktiengesellschaft fuer Erzbergbau und Eisenhuetten "Hermann Goering"

[Stamp] Top Secret

To—The Reich and Prussian Minister of Economics*

Berlin W 8
Behrenstrasse 43

Berlin W 8, 16 February 1938
Franzoesische Str. 33e

Subject: Capital Increase of our Corporation

For the purpose of securing the funds which we need to carry out the projects of our corporation in the first development stage, we request to be granted the planned increase of our base capital from RM 5,000,000 to RM 400,000,000.

For your proper evaluation of the facts, we submit the following details:

I. Range of Tasks of Our Corporation

Upon order of the Plenipotentiary for the Four Year Plan, Minister President, Field Marshal Goering, our corporation was founded on 15 July 1937 and was assigned the task to open up and exploit German iron ores, to the degree required by the national economy. The temporary share capital was fixed at RM 5,000,000—and was paid up in full.

Our corporation plans, according to its assigned tasks, to open up the iron ore deposits in the Salzgitter area, in Baden and Franconia, starting in particular with those in the Salzgitter area. On the basis of tests by recognized experts, their iron ore content is estimated to be about 2,000,000,000 tons, including those in the vicinity of the Salzgitter area. Here, the iron content amounts to an average of 30 percent and more.

* Concerning this application, an inter-office memorandum of the Ministry of Economics, dated 19 March 1938 (part of this exhibit but not reproduced herein) stated: "Since the application has already been negotiated with the Reich Bank and received an urgency priority from the Reich Finance Ministry, expeditious handling of this matter is requested."

According to present plans, the domestic iron supply is to be promoted within a number of years to such a degree that the prewar ratios of domestic production to imports will approximately be re-established. The loss of Lorraine, whose share in the former German iron-ore production was 80 percent, brought about a dislocation which is made evident in the following chart:

	Ore production (tons)	Iron content (tons)	Ore imports, including scrap (tons)	Iron content of ore imports (tons)	Ratios of domestic and foreign ores
	Million		*Million*		
1913	36	10.85 million	14.02		72 to 28.
1936	6.7	2.26 million*	18.47	8.78 million	About 20 to 80.
1937	8.5	About 2.6 million	20.62	About 10 million	20 to 80.

* 2.35 million tons in the present area of the Reich.

Iron Ore Mining—In order to eliminate the almost complete reliance on foreign ores, and to secure the growing iron requirements, it is planned to increase within about five to seven years, the ore production in the Salzgitter area to at least 20 million tons per year. (In Baden and Franconia it is to be increased gradually to about 10 million tons of iron ore.) Upon order of the Plenipotentiary for the Four Year Plan, production in the Salzgitter area is to be stepped up as quickly as possible, with the production target set at more than 2 million tons. It is for this reason that surface mining is presently pushed to the limit.

Smelting Plants—For reasons of economy to be discussed later, it is planned to process the larger part of the ores (about two-thirds) at the mines, while the rest shall be shipped to smelting plants in the Ruhr and elsewhere. Until the completion of smelters at the mines, the entire ore production is to be sent to the Ruhr.

When completed, the smelting plants are projected to turn out 4 million tons of steel ingots per year.

* * * * * * *

II. Financing of Projects

* * * * * * *

III. Economic Returns on Investments

* * * * * * *

IV. Urgency of Building Program

Securing its iron supply is a national necessity for the German economy. For the international competition in iron products,

be it in the struggle to continue the present international syndicates and German quotas, be it in the open fight for exports—it is of extraordinary importance to have the lowest possible production costs in order to be able to compete in the battle for markets. After completion of the ore development program, Germany shall receive iron extracted from domestic ores and thus an international commodity without prior intermediary, and in consequence there won't be any need for foreign exchange to pay for the foreign ores, thus enabling the quotation of lower prices in the fight for markets abroad than is possible now (that is to say, the production costs which must be covered without the national economy suffering any loss) and the head start of other European iron producers will be eliminated. Furthermore, the undisturbed shipment of the required ores can be assured to the German economy, during peace as well as in case of war, only by a substantial increase of domestic production, in consequence of the following reasons:

a. Swedish ores—In 1936 ore imports from Sweden and Norway were 8.75 million tons; in 1937 they amounted to 9.59 million tons. The imports arrived in cargo vessels via the Baltic and North Sea in about equal parts. Swedish and Norwegian production, which until a few years ago was almost completely taken over by Germany, can, due to the change-over to the Thomas process and to new installations, now also partly be smelted by the English iron industry. English imports of Swedish ores, which in 1913 were only 373,000 tons, and which until 1935 had increased to 785,000 tons, have approximately doubled during 1936 to 1,386,000 tons, consequently amounting then already to one-sixth of German purchases. In 1937 they showed a strongly rising tendency, and according to estimates of the German Chamber of Commerce in Stockholm, they amounted to about 2 million tons, and thus reached more than one-fifth of the German imports. In 1937 a Swedish-English ore agreement was signed, which—as far as is known—is to assure for 5 years deliveries of 4 million tons per year. While Sweden furnished in 1936 only 20 percent of the English ore imports, placing her thus into second position after Spain, which shipped 24 percent (in 1935 still 30 percent), Sweden moved in 1937 to top place. *The time of rearmament thus shows already an approximate picture of what would happen in case of war.* Our monopoly position concerning the shipments of Swedish ores is therefore menaced by strong international competition, which could endanger our imports by far-reaching and long-term sales contracts, because of their potential use as a means of exerting pressure in international rivalry, *particularly so in times of war.*

At the last negotiations with the German iron industry the Swedes insisted on a price increase, which, for the same amount of ores, netted them 115 million instead of 90 million in the preceding year. This was in consequence of the helpless dependence of the German manufacturers on their Swedish sources of supply.

In view of the different political constellations in Germany and the Nordic States, the Swedish ore shipments are of even greater importance. It is quite impossible to foresee today *whether Sweden and Norway* (in both countries, Social-Democratic governments have been in office for a number of years) *would respect even* sufficiently *long-term delivery contracts, and in the event of war, for political reasons, would maintain or abruptly stop ore shipments to Germany.* In addition Swedish ores are being mainly transported to Germany via the Baltic through Lulea, a harbor on the Gulf of Bothnia and ice-free only during the summer and early fall, and from the year-round ice-free port of Narvik via the North Sea, both routes being difficult to defend in the event of war. The Russian Navy and mines could completely bottle up shipping via the Baltic, while the one across the North Sea would be beset by so many danger points that it appears absolutely impossible to secure it sufficiently, hence leaving transportation only open via rails through Sweden. Of course, the latter, too, would be extensively exposed to sabotage, and also requires protection against foreign warships from the southern coast of Sweden to Ruegen. In this connection it is interesting to compare the cost of two modern cruisers of about 10,000 tons each, or of one battleship, which respectively would require about 150 to 200 million RM, with the entire outlay for the smelting installations of the first construction stage in the Salzgitter area. It is of additional importance that the Nordic ore mines are within gun range of foreign warships.

Another danger point for the Swedish ore imports in *peace and war* stems from the possible strike movements in the Nordic countries. In the spring of 1937, when a strike was threatened in Sweden, stock piles in Germany sufficed for merely 6 weeks, and if one were to consider the different qualities, probably for not more than 3 to 4 weeks. During a long Swedish strike, the Ruhr would therefore have had to close down after 3 weeks. It is also interesting to note that a power breakdown in 1937 closed the most important Nordic mines for 3 days.

b. Ores from Minette in Lorraine, Luxembourg, and Spain, etc. —Ore imports amount to—

	1936	1937
From Lorraine	6.86 million tons	5.74 million tons
From Spain (Europe and Africa)	1.07 million tons	1.38 million tons
From Algeria	0.53 million tons	0.72 million tons
From Luxembourg	0.56 million tons	1.47 million tons
From Newfoundland	0.00 million tons	0.80 million tons

These imports reached therefore 9.02 million tons and 10.11 million tons; hence about the same quantities as those imported from Sweden, although they were of much lower iron content. It requires no proof *that in the event of war it would be unthinkable to count on Minette in Lorraine, which furnished in World War I the largest part of German military requirements,* nor could one figure with ore imports from Spain and Algeria or from Newfoundland, as it would be impossible to safeguard maritime traffic. In case of a war in the West, imports from Luxembourg might also immediately be put in doubt. During peacetime there is a certain guarantee for steady shipments of Lorraine Minette ores to the Saar smelters—to the extent as a commercial treaty is possible with France. However, the danger of interrupted ore deliveries due to French strikes must not be left out of consideration. Such a strong reliance on France in one of the most important raw materials is of great disadvantage even in peacetime. Ores from Baden could easily and extensively be shipped to the Saar area at moderate freight rates. Shipments from Spain are politically insecure, as has been confirmed again by the latest developments. In this connection there is the strong English influence prevailing at the Spanish mines, so that in times of increased needs ore exports to Germany are relegated to the background. Not even the present political relation to Nationalist Spain and the active German clearing balance guarantee preferred deliveries to Germany, because the ores,—provided they are not smelted in Spain—can be sold more advantageously against foreign exchange to other parties.

c. Military-political and military-economic considerations—The *foregoing description* of difficulties attending imports of foreign ore during wartime has demonstrated the basic importance of safeguarding German ore *requirements, particularly also for war contingencies.* We are joined by the Army Ordnance Department in considering the construction program for German ore mines in Salzgitter, Baden and Franconia *as an urgent task,* especially in the Salzgitter area where the first smelting plants are to be built, because this location is exceptionally favorable, *for military-political as well as military-economic considerations.* The military-political reasons are because it is situated in the center of the country; cannot so easily be reached by enemy aircraft; and

since coal, which is not locally available, can be shipped both from the Ruhr and from Upper Silesia. The location is favorable for military-economic reasons because Salzgitter is situated in Central Germany and in closest proximity of the numerous armament industries which it can supply with iron. The building of some additional factories, important for armaments, which would process products of the smelters, could in the future take place in connection with Salzgitter, or in its proximity within the Central German area.

Additional reference is also made that by increasing German ore production to about 70 percent of its peacetime needs, the most necessary war requirements are thus secured.

d. Saving foreign exchange—The building-up of its own ore mines will in the long run also bring considerable relief to the German economy concerning the problem of foreign exchange. In 1936 a total of 168 million RM was required for the importation of ores. In 1937 this amount was increased to 221.9 million RM. If one considers that one ton of iron in the ore costs today at least RM 20.—f.o.b. [German] border and that after the projected Salzgitter ore development becomes operational at least 6 million tons of iron could be extracted from German ores, one will arrive at the value of the German extra production, which at the beginning will equal 120 million RM in foreign exchange per year (exclusive of the later exploitation of ores in Baden and Franconia), which, according to developments in German iron requirements, could either be saved from going abroad, as happens now, or be additionally expended in the future. In spite of an international trend for lower raw material prices, iron ores do not follow suit. This fact speaks for itself.

V. Preferred Shares Bearing No Voting Power

* * * * * * *

Heil Hitler!

Signed: PAUL PLEIGER

PARTIAL TRANSLATION OF DOCUMENT NID-13788
PROSECUTION EXHIBIT 2310

EXTRACTS FROM AN ARTICLE ON "THE HERMANN GOERING WORKS" BY DEFENDANT PLEIGER, APPEARING IN THE JANUARY 1939 ISSUE OF "THE FOUR YEAR PLAN"

* * * * * * *

The German iron economy has received from the Third Reich and through Field Marshal Goering the proportions on which to lay out its work.

The situation which the Field Marshal met in the iron industry when entrusted by Hitler with putting into practice the execution of the Four Year Plan was characterized by three facts:

1. The German raw steel production was insufficient to satisfy the increased needs for new economic and new political tasks.

2. The German iron production was depending on foreign raw material to an extent which would have compelled shutting down the mills quickly in case of disturbances coming from outside of our zone of influence.

3. The quality of the ores to be found in great quantities in the soil of Germany was placing new tasks before [the science of] foundry engineering.

For a right decision one must have the right opinion on the situation. That means in our case that all three facts have to be looked at as a single problem and the difficulties which have to be surpassed are not to be considered as of passing nature.

Regarding 1—Explaining the shortage of raw steel as being caused only through the interest and necessity for rearmament and through large construction plans is unsatisfactory. It is rather the fact that German iron economy had to change over to the tasks presented to it in the Germany of Adolf Hitler. We all have experienced how this Germany has surpassed whatever we have known so far in respect to intensity of work, increase in production, in wealth, in strength. Who did not know it as yet had to learn that the political requests of the Fuehrer are not depending on the present productive capacities [Leistungsfaehigkeit der Wirtschaft], the economy rather had to get in line with the requests of the Fuehrer. In view of this fact we have to calculate our needs in steel and iron for decades ahead and far above what we had calculated in 1913 or 1929, years which up to now served as criteria for the iron producing industry.

Regarding 2—The fact that German iron industry was depending on foreign raw material would not have been changed by the greatest resources of the Reich Bank in gold or in foreign ex-

change. It does not matter so much whether we can buy foreign ores, it matters whether they are sold to us at any moment and that their transportation to German furnaces is secured. Our change in the ore economy does not mean an emergency measure for getting over a temporary shortage in foreign money. We rather desire to secure to us for all future times the law of action [Gesetz des Handelns] in the raw material supply of our iron industry.

Regarding 3—The task with which foundry engineering is confronted in connection with the vast stocks in German ores is not an emergency solution by which a transitory shortage is to be met in a more or less economic way. Engineering has the task to make use of the ores found in German soil and to solve the problem of its smelting in such a way as to produce out of German ores steel of high quality capable to compete economically.

Up to the Four Year Plan no clear and uniform opinion could be reached in all three questions. The problem was too big to most and too difficult in order to see the tasks except as emergency measures for a limited period. Difficulties were more frequently pointed out to the Field Marshal than suggestions were made how to get over them. The geologists doubted the scope of the ore deposits and cautioned not to nourish excessive hopes. The technicians saw unsurmountable difficulties in the smelting process of the German ores. The profitableness of the new smelting process was seriously questioned by authoritative people.

Hermann Goering was not deceived by these objections. His requests were clear and left no doubt, thereby replacing fruitless theoretical discussions on difficulties by practical tasks. The German raw steel production has to be extended according to the Field Marshal's order that the increased needs of government and economy can be satisfied out of the production of the country without neglecting the export business. German ore production has to be increased so that the normal production of the German iron industry will use German ore mostly; in other words, increase of production and at the same time widening of the German raw material basis [Rohstoffbasis].

Those are tasks never before put before the German iron industry, the solution of which has been thought utterly impossible by most men until recent days. I, as an advocate of the opinion that this aim can be achieved, have been called a fool quite frequently in years past by people of authority, so that I am able to state today somewhat what measure of faith and energy the Field Marshal had to possess in order to have his opinion on the situation followed by a decision. Only his clear decision could show

a road promising to accomplish what was desired. The following facts mark this road:

1. The total program is not to be accomplished by a complete autarchy. The economic relations to other countries are to remain and are to be cared for in the future, too.

2. A solution to the task cannot be found by a simple enlarging of the capacity of the existing enterprises. The existing iron producing industry, however, has to be used as much as possible in the solution of the tasks through changes made in engineering and by increased production.

3. The program asks as an additional feature the setting up of new iron works which are technically in line with conditions for the economical smelting of newly gained ores.

4. Supplying the required quantities of ores made necessary a concentration of the split-up ore deposits into a mining program based on the same point of view.

Finally, the Field Marshal added hereto a last but decisive knowledge, that he alone was in a position to have others accept his conviction as to the right road, and his will and intention. Hermann Goering did not study under Professor Weigelt[1] in Halle, to learn all about the theories of this pioneer of research of the Salzgitter ore deposits, and he also did not check the construction of Herman Brassert's[2] blast furnaces. But he has asked specific questions and has received specific answers from them.

The faith and energy of the Field Marshal had the result of a magnet on all the men, who for decades were working on the solution of those problems which have become acute now. May the merit of the individual expert towards the accomplishment of these tasks be ever so enormous, one can never forget, that only one person was able to bring them together in common interest, only one who could encourage them against the doubt of their colleagues, and only one who could make them stand by their opinion also in practice, the Field Marshal acting on order of the Fuehrer. Therefore the enterprises founded for the accomplishment of the assumed tasks are called the Hermann Goering Works.

* * * * * * *

[1] Dr. Johannes Weigelt was Director of the Geological and Paleontological Institute of Halle University in Halle, Germany. For further information concerning Weigelt, see testimony by defendant Pleiger in section VI B.

[2] For further information concerning Brassert, see opening statement for defendant Pleiger in section V V, this volume, and testimony of defendant Pleiger in this section.

PARTIAL TRANSLATION OF DOCUMENT 3324–PS
PROSECUTION EXHIBIT 944

EXCERPTS FROM A SPEECH OF WALTHER FUNK, REICH MINISTER OF ECONOMICS, IN VIENNA ON 14 OCTOBER 1939, CONCERNING THE ROLE OF THE FOUR YEAR PLAN IN GERMANY'S ECONOMIC PREPARATION FOR WAR

*FUNK ON THE ORGANIZATION OF THE WAR ECONOMY 14 OCTOBER 1939**

Reich Minister of Economics Funk, who stayed in Vienna for the opening of the first wartime industrial fair [Kriegsmesse] of Greater Germany, spoke at a rally of Austrian industry on the organization and tasks of the German war economy, and explained in his speech among other things:

* * * * * * *

Now I wish to explain to you a few facts about the organization and tasks of the German war economy in order that you will be able to understand the necessity and the goal of our war economic measures. Field Marshal Goering emphasized with special vigor in his great policy-making speech of 9 September how much depends on the fact that the complete employment of the living and fighting power of the nation be secured economically as well as otherwise for the duration of the war. *Just as in military armament we have also in economic armament a great advantage over our opponents.* Not only the political and the military, but also the economic calculations of our enemies were wrong and these calculations were thrown into complete confusion by the treaties made with Russia. It is known that the German war potential has been strengthened very considerably by the conquest of Poland. We owe it mainly to the Four Year Plan that we could enter the war economically so strong and well prepared.

* * * * * * *

One can evaluate correctly what the Four Year Plan means for the economic preparation of war only when one considers that the Four Year Plan does not include only the food and raw material economy, only the entire industrial economic life, but that it also includes foreign commerce, money and foreign-exchange economy and finance, so that the entire economic life and pro-

* This document was taken from the book "Deutschland im Kampf" ["Germany in Battle"], edited by Ministerialdirigent A. J. Berndt of the Reich Ministry of Propaganda and Lieutenant Colonel von Wedel of the High Command of the Armed Forces and published by Publishing House Otto Stollberg, Berlin W 9. The German text of parts of this speech is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXII, pages 193 and 194.

duction in Germany is authoritatively determined and executed by this plan. Although all the economic and financial departments were harnessed in the tasks and work of the Four Year Plan under the leadership of Field Marshal Goering, the economic preparation for war of Germany has also been advanced in secret in another sector for many years, namely, by means of the formation of a national guiding apparatus for the special war economic tasks [besondere kriegswirtschaftliche Aufgaben] which had to be mastered at that moment when the condition of war became a fact. For this work as well, all economic departments were combined into one administrative authority, namely, under the Plenipotentiary General for the Economy [Generalbevollmaechtigter fuer die Wirtschaft] to which position the Fuehrer appointed me approximately one and a half years ago.

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TRANSLATION OF DOCUMENT NG–1177
PROSECUTION EXHIBIT 461

FOUR COMMUNICATIONS FROM THE FILES OF THE REICH CHANCELLERY, 7 DECEMBER 1939 TO 18 JANUARY 1940, CONCERNING THE EXTENSION OF TASKS OF THE GENERAL COUNCIL FOR THE FOUR YEAR PLAN AND RELATED MATTERS

1. Memorandum from Goering to the Reich Ministers of Economics, Food and Agriculture, and Labor, 7 December 1939, Announcing the Extension of the Duties of the General Council, Designating additional persons as members, and Noting that the Defendant Koerner is to act as Goering's Deputy on the General Council

RK [Reich Chancellery] 30029 B—8 December 1939.

[Handwritten]
WILL [Willuhn]
KRI [Kritzinger]
FI [Ficker]
KILL [Killy]

Minister President Field Marshal Goering
Chairman of the Ministerial Council
for Reich Defense and Plenipotentiary
for the Four Year Plan — Berlin, 7 December 1939
St. M. Dev. 11260 — [Initial] K [Kritzinger]
8 December

The necessity to equip all forces for a war of long duration occasions me to introduce further uniformity in the conduct of economic policy. In this way, the duplication of work of the Four Year Plan and the Plenipotentiary General for the Economy

938764O—51——36

[Funk, Reich Minister of Economics] is to be abolished, by limiting the functions of the Plenipotentiary General for the Economy to matters concerning the Reich Ministry of Economics and the Reich Bank.

1. To insure the essential current cooperation among all departments participating, the *General Council for the Four Year Plan*—already working within a confined sphere of tasks of the Four Year Plan—will be enlarged. From now on, State Secretaries Koerner, Neumann, Landfried, Backe, Syrup, Kleinmann, Alpers and Stuckart, the Reich Commissioner for Price Administration, and Brigadier General Thomas, Chief of the Military Economic Office of the OKW, and a representative for the Fuehrer's Deputy will belong to it. If questions concerning the financing of the war are to be discussed, the consultation of the Reich Ministry of Finance and the Reich Bank remains reserved, and furthermore, the Plenipotentiaries General of the Four Year Plan can be consulted insofar as questions relating to their sphere of tasks are brought up for discussion.

I shall assume the chairmanship of the General Council. State Secretary Koerner will be my deputy.

The function of the General Council for the Four Year Plan is the current distribution of the tasks of the individual departments, and the receipt and discussion of the reports concerning the state of the work of the individual departments, including the instigation of the necessary measures.

2. Moreover the *offices of the Plenipotentiary for the Four Year Plan* will continue their business as before. *Decrees* which pursuant to *the Reich Defense Law* be issued either by the *Plenipotentiary General for* the Economy, or with the approval of the Plenipotentiary General for the Economy, will in the future be issued by the Plenipotentiary for the Four Year Plan, based on his authority or his approval, unless it concerns the Plenipotentiary for the Economy for the Reich Ministry of Economics and the Reich Bank alone. Other jurisdiction of the Plenipotentiary for the Economy exceeding that of the Reich Ministry of Economics and the Reich Bank will in future be exercised by the Plenipotentiary for the Four Year Plan. The hitherto existing office of the Plenipotentiary for the Economy will be dissolved.

The new decree will come into force on 20 December 1939.

[Signed] GOERING

To—

a. The Reich Minister of Finance
and Plenipotentiary General for
the Economy

b. The Reich Minister of Food and Agriculture
c. Reich Minister of Labor

Certified:
[Signed] KOEHLER
Administrative Assistant

[Seal]
Prussian State Ministry Chancellery

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2. Memorandum from Willuhn to His Chief, the Defendant Lammers, 8 December 1939, Concerning Goering's Directive Expanding the General Council of the Four Year Plan

To [the file]
Reich Chancellery 30029 B Berlin, 8 December 1939

1. *Memorandum* regarding the enclosed decree of the Chairman of the Ministerial Council for Reich Defense, Plenipotentiary for the Four Year Plan.

The decree regulates *4 groups of questions:*

a. The General Council for the Four Year Plan is to be expanded.

Hitherto this General Council existed already. Now it is to be expanded. Its task will preferably be to prepare for action to be taken by the Ministerial Council matters which arise, dealing with Reich Defense. To a certain extent it is to "sieve them out." It can be assumed with certainty that the chairmanship of the General Council will preferably be allotted to State Secretary Koerner.

No provision is made for the participation of the Reich Minister and the Chief of the Reich Chancellery in the General Council. This has to be achieved, especially since a representative of the Fuehrer's Deputy also belongs to the General Council. I also consider it necessary that a representative of the Reich Minister and Chief of the Reich Chancellery should participate, because the decrees to be issued by the Ministerial Council for Reich Defense are to be submitted to the Reich Minister and Chief of the Reich Chancellery.

[Handwritten in margin] Correct!

b. The offices of the Plenipotentiary for the Four Year Plan will carry on their business as before.

These offices are—

(1) Labor Allocation (Ministerialdirektor Dr. Mansfeld)
(2) Agricultural Production (State Secretary Backe)
(3) Price Administration (Oberpraesident and Gauleiter Wagner)

(4) Foreign Currency matters (State Secretary Neumann)
(5) Plenipotentiary General for Iron and Steel (Brigadier General von Hannecken [Hanneken])
(6) Plenipotentiary for Special Questions of Chemical Production (Dr. Krauch)
(7) Plenipotentiary General for Motor Transportation (Colonel von Schell)
(8) Plenipotentiary General for the Construction Industry (Dr. Todt)
(9) Plenipotentiary General for Increasing Mining Production (Walther)
(10) Plenipotentiary General for Machinery (Direktor Lange)
(11) Plenipotentiary for Oil (Professor Bentz)

c. The authority of the Plenipotentiary General for the Economy to issue decrees is to be restricted to matters pertaining to the Reich Ministry of Economics and the Reich Bank.

d. Other jurisdiction of the Plenipotentiary General for the Economy is to be transferred to the Plenipotentiary for the Four Year Plan. The offices of the Plenipotentiary General for the Economy are to be dissolved, with effect as of 20 December 1939.

2. Respectfully submitted to the Reich Minister [the defendant Lammers] with the request for attention.

[Initial] K [KRITZINGER] [Initial] W [WILLUHN]

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3. Memorandum of the Reich Chancellery, 11 December 1939, Concerning the Defendant Lammer's Discussion with Funk, and Stating Lammers' Views that He Should Have a Representative on the General Council of the Four Year Plan

Berlin, 11 December 1939

To [file]: Reich Chancellery 30029 B

[Handwritten] 1. RK 367 B40

1. *Memorandum:*

The Reich Minister has discussed the new regulation with Reich Minister Funk. Reich Minister Funk agrees to it. Owing to the decree of Field Marshal Goering dated 7 December 1939, the Reich Minister considers the intention of the OKW to implement the new organization with a circular letter or an order as being of no importance. Lieutenant Colonel Boehme has been informed by telephone of this point of view and agrees to it.

The Reich Minister is of the opinion that a representative of the Reich Minister and Chief of the Reich Chancellery should

also belong to the General Council for the Four Year Plan. The Plenipotentiary for the Four Year Plan is to be requested to amend the decree accordingly.

2. To Reichskabinettsrat Dr. Willuhn

[Initial] W [WILLUHN] [Initial] K [KRITZINGER]

[Handwritten]

1. RK 367 B40

(1) A letter has been sent to State Secretary Koerner. A discussion also took place between the Reich Minister and State Secretary Koerner.

(2) In connection with that written under 1.

[Initial] W [WILLUHN]

[Illegible handwriting]

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4. Letter from the Defendant Koerner to the Defendant Lammers, 18 January 1940, Concerning the Appointment of Willuhn, as Lammers' Representative to the General Council

Reich Chancellery 1266 B, 20 January 1940

[Handwritten]

1. To the Reich Minister respectfully submitted with request for attention.

2. To the files. [Initial] W [WILLUHN]

[Initial] L [LAMMERS] 24 January 23 January

The State Secretary of the Plenipotentiary for the Four Year Plan and the Prussian State Ministry.

Berlin W 8, 18 January 1940

[Initial] K [KRITZINGER]

20/1

[Handwritten] Previous Reference RK 367 B40

[Initial] K [KRITZINGER]

21/1

Dear Dr. Lammers:

I have had the opportunity of speaking about the appointment of Reichskabinettsrat Dr. Willuhn as a regular member of the General Council. I would like to confirm in writing again that both the Field Marshal and I would be very grateful if Dr. Willuhn belongs to the General Council, so that he can inform you at any time of the measures we have introduced. Even though the Field Marshal must unfortunately refrain at present from amending his decree concerning the General Council, that does

not influence the fact that Kabinettsrat Dr. Willuhn will be considered a regular member of the General Council.

I would be very grateful to you if you would also inform Dr. Willuhn of this.

Heil Hitler!

Yours,

[Signed] KOERNER

To the Reich Minister and Chief of the Reich Chancellery
Dr. Lammers, in Berlin W 8

PARTIAL TRANSLATION OF DOCUMENT NG-1492
PROSECUTION EXHIBIT 2575

LETTER FROM DEFENDANT LAMMERS TO THE REICH MINISTERS, 21 MAY 1940, TRANSMITTING A COPY OF HITLER'S DECREE OF 19 MAY 1940 ON GOERING'S AUTHORITY TO ISSUE ORDERS TO THE REICH COMMISSIONER IN HOLLAND IN CONNECTION WITH THE FOUR YEAR PLAN

Berlin W 8, 21 May 1940

The Reich Minister and Chief of the Reich Chancellery
Rk. 324 B g

Secret

With reference to the Fuehrer's decree concerning the governmental powers in the Netherlands of 18 May 1940 (Reich Law Gazette I Page 778), I hereby for your confidential information transmit a further decree of the Fuehrer of 19 May 1940 which is an amendment to the previous decree, authorizing the Plenipotentiary for the Four Year Plan to issue directives to the Reich Commissioner for the Occupied Netherlands within the framework of his tasks.

Signed: DR. LAMMERS

To the Reich Ministers

Secret

Copy of the enclosure

By the decree of 18 May 1940 I appointed the Reich Minister Dr. Seyss-Inquart as Reich Commissioner for the Occupied Netherlands. In this capacity he is directly responsible to me and receives his directives and orders from me.

As it is necessary for the German war economy to coordinate the planned program also for those areas which are occupied by German troops, I hereby decree that Field Marshal Goering is also authorized to issue orders to the Reich Commissioner within the framework of his tasks in his capacity as Plenipotentiary for the Four Year Plan.

Any publication of this order is prohibited.

The Fuehrer Headquarters, 19 May 1940

The Fuehrer

Signed: ADOLF HITLER

Seal: Reich Chancellery

Signed: DR. LAMMERS

Ia 77g/40

TRANSLATION OF DOCUMENT NI-125
PROSECUTION EXHIBIT 463

DECREE OF 18 OCTOBER 1940, SIGNED BY HITLER, GOERING AND DEFENDANT LAMMERS, RENEWING GOERING'S APPOINTMENT AS PLENIPOTENTIARY FOR THE FOUR YEAR PLAN FOR ANOTHER FOUR YEARS

1940 REICHSGESETZBLATT, PART I, PAGE 1395

Decree on the Further Duties of the Plenipotentiary for the Four Year Plan, 18 October 1940

As the 4-year period established by the Decree on the Execution of the Four Year Plan of 18 October 1936[1] (Reich Law Gazette I, p. 886) is now over, I again charge Reich Marshal[2] Goering for a further period of four years with the continued execution of this Four Year Plan with the special assignment of adapting it to the demands of war.

Reich Marshal Goering therefore retains the full powers given by the ordinance of 18 October 1936.

Berchtesgaden, 18 October 1940

The Fuehrer and Reich Chancellor

ADOLF HITLER

The Plenipotentiary for the Four Year Plan

GOERING

Reich Marshal

The Reich Minister and Chief of the Reich Chancellery

DR. LAMMERS

[1] Document 2071-PS, Prosecution Exhibit 936, reproduced earlier in this section.

[2] Goering was given the title of "Reich Marshal" on 19 July 1940.

TRANSLATION OF DOCUMENT NI-002
PROSECUTION EXHIBIT 969

ARTICLE ON "THE REICH WORKS HERMANN GOERING" IN THE MAGAZINE "THE FOUR YEAR PLAN" OF 5 DECEMBER 1940, DISCUSSING ITS PURPOSES AND ORGANIZATION

The Reich Works Hermann Goering

The founding on 23 July 1937 of the Reich Works for Ore Mining and Iron Smelting [Reichswerke A.G. fuer Erzbergbau und Eisenhuetten, "Hermann Goering" Inc.] signifies a landmark in the development of German ore mining and of the German iron industry. Considerations of war economy have above all determined the decision of the Reich Marshal. After the unhappy outcome of the World War and the loss of extended and highly productive metallic deposits in the West and East, German iron industry was reduced to a great dependency upon foreign supply of raw materials. This dependency grew in the measure in which the German economy under National Socialist leadership developed in an ascending curve, and had to create the preconditions for the reconstruction of the armed forces on land, on water and in the air. Here lay one of the most important tasks of the Four Year Plan.

From the beginning, thousand-fold difficulties, as much in the technical as in the organization sphere, confronted the construction of these new works and the exploitation of indigenous ores. Without the energy of the Reich Marshal—the experience of a series of years has clearly demonstrated this—this gigantic task would not have been solved. One must have dared much here, in order to win, one must have possessed the courage to create with a bold plan. Only the authoritarian state-leadership could have undertaken this task. That private initiative moreover is indispensable for the future of German economic life remains undisputed and has often enough been confirmed by the leading personalities of German economic policy. However, in a national economy highly developed technically and politically, which should serve not the profit motive of the individual but the common good, there will always exist huge tasks which have outgrown the private sphere and will be solvable only through the forces of the community. This applies particularly to our time in which only the political leadership sets the tasks and goals of the economy.

The further development of the Reichswerke led, of necessity, to the acquisition of affiliates which are suitable for the creation of a healthy economic organism which will render permanently valuable and additional services to the community. These affili-

ates had their origin in large part in the territories recently (since 1938) annexed to the Reich. The majority of the stocks of Rheinmetall Borsig was, even before the acquisition through the Reichswerke, in the possession of the Reich. With the Anschluss of the Ostmark [Austria] and the New Order [Neuordnung] in Bohemia and Moravia, the Reichswerke took over a number of important enterprises, for example: cast steel works, machine factories, mining and iron smelting companies, as well as steamship companies. The coal mines acquired in the meantime serve predominantly the needs of the iron-producing works. Above all they are designated to cover the coal requirements of the smelting works. Lignite mining in the Sudetenland and the dry-distilling and the hydrogenation works belonging to them, fulfill the task of increasing the production of synthetic fuel, in line with the policies of the Four Year Plan, and thereby of securing the motor fuel supply of Greater Germany. The shipping enterprise is tied together, which in clear direction toward the great goal and in the fulfillment of the demands of our time exclusively serves the aim of the defense of the Reich. The founding of a unified concern ensued naturally from this state of affairs; it took place on 7 July 1939 with the establishment of the A.G. Reichswerke "Hermann Goering" which as the leading company took care of the rigid and unified carrying out of tasks of all the affiliated enterprises. The Hermann Goering Concern has been reorganized recently. The Reich Marshal, as creator of the Reichswerke, lays down, corresponding to the special meaning of this concern, the fundamental policy. His permanent representative, State Secretary Koerner, directs the concern within the framework of the policy, Director General Roehnert is chairman of the Vorstand and General Manager of the A.G. Reichswerke "Hermann Goering." All the production units making up the A.G. Reichswerke "Hermann Goering" are divided into three large divisions, all having their location in Berlin, as follows:

1. The Reichswerke for Mining and Smelting Enterprises "Hermann Goering" Inc. State Secretary Koerner is Chairman of the Aufsichtsrat. Director General Pleiger is the chairman of the Vorstand. In this division are contained all the mining and smelting enterprises of the Reichswerke in Germany proper, in the Ostmark, in the Protectorate and in East Upper Silesia.

2. The Reichswerke for the Construction of Arms and Machinery "Hermann Goering," Inc. Director General Roehnert is chairman of the Aufsichtsrat. Dr. Voss is Chairman of the Vorstand. This division comprises, in addition to the Rheinmetall Borsig A.G., all the enterprises affiliated to the Reichs-

werke, in the Ostmark and in the Protectorate which are occupied with the production of weapons and machines.

3. The Reichswerke for Inland Waterways Shipping "Hermann Goering," Inc. Director General Roehnert was appointed as chairman of the Aufsichtsrat and Dr. G. Schmidt[1] was appointed as chairman of the Vorstand. The leading steamship companies of the Danube and a large inland waterways shipping concern on the river systems of the Oder and Elbe belong to this division.

This generously constructed and clearly organized concern has become, with its numerous highly developed production plants, the gigantic armament forge of the Reich in which are carried through all production processes from the extraction of ore from German soil to tanks ready to go, and to the finished gun. Already at this time there are about 600,000 people active in all enterprises of the concern. This large personnel works with all its strength for the victory of Greater Germany.

The Reichswerke "Hermann Goering" fulfill therewith the most important tasks of the war economy. With their broad foundation and their balanced production program, in the sphere of the iron-producing industry as well as iron processing industry, the Reichswerke will constitute an essential factor especially in the economy of Greater Germany, also in peacetime.

PARTIAL TRANSLATION OF DOCUMENT NID-13844
PROSECUTION EXHIBIT 973

EXTRACTS FROM A SPEECH BY STATE SECRETARY NEUMANN, 29 APRIL 1941, SURVEYING THE ACCOMPLISHMENTS AND TASKS OF THE FOUR YEAR PLAN[2]

[Handwritten] Author: Oberregierungsrat Dr. Donner.[3]

THE FOUR YEAR PLAN

(Speech at the Administrative Academy, Berlin, 29 April 1941)
[Handwritten] (delivered by State Secretary Neumann)

* * * * * * *

In order to escape the power of opponents who keep us from foreign raw material by military or commercial means and who thus could force us to our knees, we had to consider how we could

[1] Guido Schmidt, Austrian Foreign Minister before the Anschluss. Further information on Schmidt is in section VI C.

[2] Erich Neumann was one of Koerner's leading assistants in the Four Year Plan. He, like Koerner, held the title of State Secretary in the Prussian State Ministry.

[3] Dr. Donner was an aide to State Secretary Neumann.

achieve reasonable political and economic independence. The following solutions are possible:

1. *The autarchy solution*—The economic sphere [Wirtschaftsraum] is here restricted to the size of the state [Staatsraum] or to put it in different words; economy will be changed over from foreign to domestic raw materials * * *.

2. *The political solution*—Here the size of the state will be extended to equal the economic sphere by adding as many agrarian and raw material territories required to meet raw material and food requirements in our own territory.

3. *The large sphere solution* [*Grossraumloesung*]—In this case the autarchy [-inspired] production and consummation control are combined with the extension of the state's territory and political sphere of influence, respectively, of a large sphere economy [Grosswirtschaftsraum]. For Germany, only the last mentioned solution, the large sphere economy can be considered. An autarchy within these borders existing before the war is technically simply impossible. Because the population is too large in order to meet the demand for food completely from its own soil, even by the application of highest agrarian technique, not to speak of the deficiency of industrial raw materials. The safeguarding of German requirements of living can hardly be achieved by the second solution, and important national and racial principles stand in the way of its crass implementation. So it depended on preparing Germany militarily and economically so that it could enter the diplomatic discussions [politische Auseinandersetzungen] on the large-space solution with the prospect of greatest success. This had to bring about results of two kinds, namely, first the restoration of the economic fundaments of the German people, destroyed by the Treaty of Versailles, and moreover an extension of German sphere of influence which would allow of supplementing its own economic sources, also by reconstruction of mutual exchange with the neighboring territories in order to safeguard life and prosperity of the German people completely and forever.

* * * * * * *

The economic-political part of this task is concentrated in the Four Year Plan, which simultaneously represents: An economic-political principle enforcing upon the German people, a most far-reaching autarchy, the highest economic-political command in the Reich, and a special function for certain economic-political focal points.

Let me characterize briefly these three aspects of the Four Year Plan.

II. *The three aspects of the Four Year Plan*

The way of the Four Year Plan goes in the direction of autarchy. Owing to the thunderclouds which already then appeared on the foreign-political horizon, the Fuehrer ordered in the year 1936 to make Germany capable to wage war within four years. The economy was to be reconstructed and developed by the utilization of all disposable means so that we could confidently face after these four years a blockade like that of 1914–18. The decisive point of this program was the mutual adaptation of consumption and indigenous production of militarily important materials.

* * * * * * *

Of a perfect autarchy, however, one did not think.

* * * * * * *

It is necessary to make the golden cut between an autarchy required in the interests of military security on the one hand, and the international exchange of goods on the other insofar as we need it for the maintenance of a living standard adequate for German cultural demands.

* * * * * * *

That every man would do on his own accord what the economic principle of the Four Year Plan would demand from him is improbable. It would be even unfair to assume that enterprise could adapt its fabrication to the new requirements wholly by its own knowledge and will, and the consumers would know by themselves how to behave best in the national-economic interest.

* * * * * * *

What would happen if one would inform the troops of a strategic over-all plan, but would leave it to the discretion of every subordinate leader to carry it out according to his own judgment? Likewise it would be rather a sad story about the implementation of economic construction if the Four Year Plan was not also at the same time *the highest economic-political command post.* By decree of 18 October 1938 the Fuehrer has entrusted the then General Goering with the responsible execution of the Four Year Plan. * * * As Plenipotentiary for the Four Year Plan, Reich Marshal Goering maintains the position which comprises all great lines of economic policy, balancing and directing it, he is, as I said already once before, the highest command post of the economy.

* * * * * * *

We come to the concentration of the third aspect of the Four

Year Plan, the concentration of its role as *special* function on certain focal points of economic-political *developments.*

A good example for this is the Plenipotentiary General for the *Iron and Steel Production and Allocation.* Already soon after the start of the work in the Four Year Plan the overwhelming importance of iron became obvious, not only for the implementation of the direct armament program, but also for the construction and development of the other Four Year Plan tasks serving indirectly rearmaments. Iron assumed a key position * * *. In order to have accomplished these tasks in time * * * he [Goering] appointed a Plenipotentiary General for Iron and Steel Production and Allocation who had to work on all questions concerning iron as the organ of the Four Year Plan. The emergency of the development of gunpowder, explosives, synthetic rubber and gasoline production caused the appointment of a *Plenipotentiary General* of the Four Year Plan for Special Questions of *Chemical Production.*

* * * * * * *

III. *The Achievements of the Four Year Plan*

* * * * * * *

1. * * * What has been disposable of labor, material and machines, had to be invested according to the clear order of the Fuehrer first of all for the reconstruction of militarily important production in order to establish firmly once more the position of Germany's life in the world. * * * "Guns instead of butter" is the slogan which this condition exactly formulates.

2. The decisive question is, therefore, whether the Four Year Plan has helped us to more armaments, to more "guns" than we could have expected without, whether it has safely strengthened the war potential and the military-economic striking power. The answer cannot be doubtful. The course of this war has given it. I enumerate only three examples, the arms, the ammunitions, and the gasoline supply—that our *arms* as a rule are far superior to those of the enemies' the adversaries felt sufficiently. The use of *ammunition* was so far relatively small, but it has been provided for that the frequent catastrophic shortages of ammunition of the World War cannot recur, and the military *gasoline* supply, in spite of the vast demand for the air force and the gigantic motorized units, has worked excellently.

3. The other war-economic achievements of the Four Year Plan are less manifest, but therefore not less important. Let us consider first the *food situation.* In 1928 we covered only 71 percent of our food requirements from indigenous production. We had to import 29 percent from foreign countries. In 1939

we stood at 85 percent of indigenous supply, not as a result of reduced consumption, but as a result of production increase even allowing to an increase in consumption. * * * The introduction of ration cards at the outbreak of war, which were carefully prepared in peace, secured the work in war.

* * * * * * *

4. As regards *the industrial raw materials,* we not only succeeded in securing the demand for material for a current armament production during the first Four Year Plan and in satisfying the civilian demand for raw materials which was increasing with the full employment of the economy, we succeeded, moreover, in going to war with an important national raw material reserve. To achieve it, the Four Year Plan was especially concerned.

* * * * * * *

Through the extension of the synthetic rubber production * * * we have put ourselves into the position to cover the war demand for rubber up to three-fifths from synthetic rubber. * * *

Similar results have been achieved in the supply of *gasoline* by the increase of mineral oil output and production of synthetic gasoline. Decisive basic material for products for the armed forces [Wehrmachtfertigungen] as well as for the building up of new industries was as already mentioned *iron.* By search of the soil for new deposits, by the perfection of smelting methods for ores with low iron content [Fe-arme Erze] as well as by the establishment of new smelting and working plants, the German iron industry, but in particular the Reichswerke "Hermann Goering," have contributed to widen the narrow straits of iron supply. The iron ore production has been almost tripled from 1936 to 1940. The share of indigenous iron ores in the total supply has been increased from the early 25 percent to 60 percent. By this and the help of the national reserve it has become possible to overcome the not unprecarious iron-economic position, at the beginning of the war until the recovery of the ore mines of Lorraine.

* * * * * * *

As regards *labor allocation,* further considerable difficulties exist. Since the outbreak of the war a great number of workers and employees have been called up to the army * * *. By taking in foreign workers and utilizing prisoners of war, we have provided the economy with a total of 1.6 million workers * * *."

TRANSLATION OF DOCUMENT NID–13894
PROSECUTION EXHIBIT 974

ANALYSIS OF THE ORGANIZATION AND FUNCTIONS OF THE FOUR YEAR PLAN BY DR. DONNER

[Handwritten]: Addition to an essay of State Secretary Neumann authored by Dr. Donner.[1] [Illegible Initials] 27 August

Organizational Questions of the Four Year Plan

The Four Year Plan is in the first line an economic-political principle. The conception of the Four Year Plan unites the efforts of the German people and its leadership for an economic armament preparation of the Reich with the leadership of the economic war and the total economic mobilization during the war. Therefore, organizational questions are not in the foreground with respect to the entire machine created by the Plenipotentiary for the Four Year Plan during the course of the years. On the contrary, the organization of the Four Year Plan was always increased, extended, and, according to the demands of the moment, has disappeared again. The leading motto of all measures was, as the Reich Marshal once formulated it, that the economy does not serve the organization but the organization has to serve the economy. The picture of the organization of the Four Year Plan, therefore, is not easily understandable at first glance, but the organizational forms which were used corresponded to practical demands.

From the beginning it was the endeavor of the Plenipotentiary for the Four Year Plan to create new organizational forms and, especially new agencies only in such cases where it was of highest necessity. The Plenipotentiary made efforts to use existing organizations if possible and to impose the responsibility of the various fields of economy to those men who were already responsible in the organization of the State. This was easy for him because the power given to him by the decree of the Fuehrer for the Execution of the Four Year Plan dated 18 October 1936,[2] Official Reich Gazette, volume I, page 887, authorized him to issue directives to all Supreme Reich Authorities and to all agencies of the Party, its branches and affiliated associations.

Concerning the organization, however, the Plenipotentiary of the Four Year Plan, had to adopt new methods in two respects. In order to carry out the task entrusted to him, namely, to subordinate the management of all economic measures to a uniform

[1] Apparently this is an addition to Dr. Donner's draft of Neumann's speech of 29 April 1941, Document NID–13844, Prosecution Exhibit 973, reproduced in part immediately above.

[2] Document 2071–PS, Prosecution Exhibit 936, reproduced earlier in this section.

leadership of all economic forces and to a strict concentration of all jurisdictions of Party and State, as was his duty pursuant to the decree of 18 October 1936, he had before all to create an economic command agency which was superior to all Supreme Reich Agencies.

He did this by appointing State Secretary Koerner his general deputy for all questions concerning the Four Year Plan and by putting at his disposal an office staffed with a small number of highly qualified people. This office, as a sort of Reich Chancellery of Economics, was charged with observing the coordination of the work of the various economic departments and the other offices of the Four Year Plan, and, if need should be, was to submit to the Reich Marshal the necessary proposals for measures to coordinate the various tasks, to remove differences in opinion and avoid shortages and danger moments. That, with such a centralized control of all individual tasks a principal part of responsibility rested with the Plenipotentiary of the Four Year Plan was recognized from the very beginning. This necessity became increasingly apparent when in winter 1937–38 the Reich Marshal temporarily assumed the leadership of the Reich Ministry of Economics and after the effected reorganization of the Ministry withdrew to the important tasks of centralized control of economics. This tendency was again confirmed and became apparent when, after the outbreak of the war, the Reich Marshal by decree of 7 December 1939—St. M. Dev. 11260—again assumed the tasks of the Plenipotentiary General for the Economy* and thus himself took over the tasks of the supreme leadership of war economy.

Newly created within the Four Year Plan was also the so-called General Council, that is, the meeting at regular intervals of the State Secretaries of all economic departments [Ministries concerned with economic matters] (Reich Minister of Economics, Reich Minister of Food and Agriculture, Reich Minister of Labor, Reich Forest Master, Reich Minister of Transportation, Reich Minister of Finance, lately also Reich Minister for Arms and Munitions) representatives of the Reich Minister of the Interior, the Foreign Office, the High Command of the Armed Forces and the Party Chancellery—if necessary [meeting] with the Plenipotentiaries General of the Four Year Plan. The General Council which superseded the so-called Small Ministerial Council, originally provided for in the Four Year Plan, is an organ of the over-all direction of the economy whose purpose is the prevention of overlapping and frictions and the coordination of individual tasks. Still from another point of view, the Plenipotentiary for the Four Year Plan had to abandon his principle

* Document NG–117, Prosecution Exhibit 461, reproduced earlier in this section.

of utilizing the existing organization of government authorities. *Plenipotentiaries General* were appointed for specific, particularly decisive *centers* of activities in the economic policy. They were ordered to develop the economic branch assigned to them by overcoming any resistance, as particularly provided for in the instructions given to the Plenipotentiary General for Special Questions [of Chemical Production] for certain branches of the chemical industry, for example, the synthetic rubber, mineral oil, and light metal industries. Even in the case of such special offices, it can be found that the Plenipotentiary endeavors to transfer their tasks to the competent departments as soon as they are fulfilled satisfactorily or have lost their significance. The "Office for German Raw Materials and Synthetic Materials", an agency characteristic for the Four Year Plan, which was primarily charged with the extension of all German raw material industries, was dissolved in the course of the reorganization of the Reich Ministry of Economics and its tasks, insofar as they were decisive tasks, were transferred to the Reich Ministry of Economics; the remainder was transferred to a subordinate agency of the Reich Ministry of Economics, the present Reich Office for Economic Development. Similar examples may be found in respect to other agencies, for example, the Foreign Exchange Investigation Office —whose tasks have become almost obsolete due to the reduced importance of foreign exchange transactions within the European economic area at our disposal, the Plenipotentiary for Increased Output in the Mining Industry, and other agencies of the Four Year Plan.

Seen in its entirety, the organization of the Four Year Plan gives the following picture:

The individual divisions, Plenipotentiaries General, and Special Commissioners [Sonderbeauftragte] of the Four Year Plan are subordinated to the Plenipotentiary of the Four Year Plan and the General Council as well as to the permanent Central Office of the Plenipotentiary.

As to the divisions, they were established without any exception in connection with the corresponding economic departments, the State Secretaries of which are, on principle, also the heads of the respective divisions. This applies to the divisions food, labor allocation, transportation and forestry. Two independently organized divisions, that is, the division for the distribution of raw materials and that for industrial fats, were dissolved in the meantime. As an independent division without any departmental connection, only the division for foreign exchange is still in existence; its importance, however, has considerably decreased for reasons mentioned above with regard to the dissolution of the

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Foreign Exchange Investigation Office. A special position is also held by the Reich Commissioner for Price Administration, who formally has the position of a division; practically, however, by nature of his task and with reference to his predecessor, the Price Control Commissioner holds in many respects the position of a Supreme Reich Authority.

Thus, if the establishment of the division essentially is only an organizational form of the close connection of the departments with the Plenipotentiary for the Four Year Plan, the position of the *Plenipotentiaries General* which regularly were established without connection with existing offices, is a more independent one. Reasons for the appointment of Plenipotentiaries General and their assignment to especially important tasks of political economy have already been set forth above. Consequently, they have not been assigned according to an elaborate plan, but individually in cases where an individual task arose. This applies to the Plenipotentiary General for Iron and Steel Production and Allocation, to the Plenipotentiary General for Special Questions of Chemical Production, to the Plenipotentiary General for the Construction Industry, and to the Plenipotentiary for Motor Transportation as well as to the Plenipotentiary for German Power Utilities [Energiewirtschaft].

Their duties are evident from their title. The Plenipotentiary General for Iron and Steel Production and Allocation carries the responsibility for the proper allocation of the existing deposits of pig iron and crude steel as well as the procurement of indigenous and foreign ores and the necessary scrap metal. The primary duties of the Plenipotentiary General for Special Questions of the Chemical Production on the field of extending the mineral oil, rubber, and light-metal industry have already been mentioned above. The Plenipotentiary General for the Control of the Construction Industry carries the responsibility for the volume of construction which was extraordinarily increased in the course of the Four Year Plan and which has to be kept on a priority system to be organized in accordance with available labor and construction material. The Plenipotentiary for Motor Transportation who is at the same time in charge of the motorization of the army and chief of the Traffic Department of the Reich Ministry of Transportation was primarily charged with increasing and standardizing the production of German motor vehicles. The Plenipotentiary General for the Power Utilities was entrusted with the expansion of German power plants and gas works as well as with reorganization in case of badly arranged conditions.

Special Commissioners were appointed in fields which were not important enough to justify the appointment of Plenipotentiaries

General, which however needed special attention. There are to be mentioned the Plenipotentiary for the Extraction of Mineral Oil (Prof. Dr. Bentz), the Commissioner for Technical Means of Communication (General of the Signal Corps Fellgiebel) and the Haupttreuhandstelle Ost (which is entrusted with the confiscation, administration, and realization of former Polish property). Reference is also made to individual commissioners whom the Reich Marshal appointed during the war in carrying out his task of steering the war economy of all occupied areas; for instance the commissioners for confiscation and use of raw materials, for the seizure of scrap iron and old materials and for the inland navigation in the occupied western territories.

Summing up, therefore, it may be stated for the central organization of the Plenipotentiary for the Four Year Plan that it is a combination of a central economic command agency with the departments and the plenipotentiaries and special commissioners, assigned to particularly important special tasks.

In the course of years and in connection with the expansion of the Reich, the knowledge has taken roots that the economic administrative tasks of the Plenipotentiary for the Four Year Plan cannot be restricted exclusively to the Central Office. The Plenipotentiary now, as before, is of the opinion that he does not administrate himself but that he only issues directives to the responsible offices. The present structure of our administration, however, makes it necessary that also on the middle level the various offices of the economic administration are coordinated and adjusted to one another. That is the task which the Plenipotentiary assigned to the economic leadership staffs which he attached to the offices of the Reich Governors, Oberpraesidenten and similar authorities also in their capacity as delegates for the Reich defense. As a consequence of the development of the administration in the past years—caused by the tremendous increase of the economic administrative tasks and the expansion of the governmental administrative apparatus—more and more offices of the economic administration were created independent of one another and in part also outside of the scope of the general administration. Their activity was in urgent need of coordination and centralization. That task was assigned to the Reich governors themselves to whom was attached a directing and advising body in the economic leadership staff which was composed of the managers of the individual authorities of the economic administration (Regional Economic Office, Regional Labor Office, Office for Forestry and Lumber Industry, etc.) and permanent specialists of these individual agencies. On principle the chief of one of the Offices of Economic Administration in question was

appointed chief of the staff of the leadership staff. The position of the economic leadership staff corresponds also very much to the tasks which in the central office are assigned to the general office and the permanent office of the Plenipotentiary for the Four Year Plan.

TRANSLATION OF DOCUMENT NID–15578
PROSECUTION EXHIBIT 3773

LETTER FROM DEFENDANT PLEIGER TO THE GAULEITER OF WESTPHALIA-SOUTH, 6 JANUARY 1942, NOTING THAT HITLER'S "MEIN KAMPF" SHOWS THE WAY FOR THE YEAR 1942*

6 January 1942

Halensee Albrecht-Achilles Str. 62/64

To the Gauleiter of Gau Westphalia-South of the NSDAP
Party Member Giesler, Bochum (Westphalia)

Dear Party Member Giesler:

Your remembering me for the New Year has given me great satisfaction for which I should like to thank you very much. The Fuehrer's book, "Mein Kampf" will show exactly the way for the year 1942.

Wishing you personally too, all the best, I remain with kind regards and Heil Hitler!

Yours,
[Initial] P [PLEIGER]

* This exhibit and the following two exhibits were marked for identification during the cross-examination of defendant Pleiger. See the extracts from the testimony of defendant Pleiger reproduced below in this section.

TRANSLATION OF DOCUMENT NID-15579
PROSECUTION EXHIBIT 3772

LETTER FROM THE CHANCELLERY OF THE NAZI PARTY, TO DEFENDANT PLEIGER, 19 DECEMBER 1942, CONCERNING PLEIGER'S COOPERATION WITH THE ECONOMIC-POLITICAL ORGANIZATION OF THE NAZI PARTY, AND PLEIGER'S REPLY THERETO

National Socialist German Labor Party
Party Chancellery
Oberbereichsleiter Froehling

Munich
19 December 1942
Fuehrerbau
III B 4—Da.
1500/0

To the Gau Economic Adviser of the Gauleitung Westphalia-South of the NSDAP, Generaldirektor Paul Pleiger

[Stamp]
Secretariat
Pleiger
2064

Berlin—Halensee
Dear Party Member Pleiger:

The Reichsleiter [Martin Bormann, Chief of the Party Chancellery] has requested me to send you a book, "Economic History of Germany from Prehistoric Times up to the Medieval Age," by Heinrich Bechtel and the pamphlet "Might and Economic Law" by Klaus Wilhelm Rath.

I am using the opportunity to extend to you my best wishes in view of the approaching holiday and the New Year.

Although at the present time you are in no position to conduct personally the office of the Economic Adviser I dare to express the hope that your cooperation as a comrade with the economic-political organization of the Party will prove to be succesful in the coming year also.

Heil Hitler!
Yours,
[Signed] FROEHLING

Berlin—Halensee, 6 January 1943
Albrecht-Achilles-Str. 60–64

To—
The Oberbereichsleiter
Party Member Froehling
Munich 33
Party Chancellery, Fuehrerbau

Subject: III B 4—Da. 1500/0

Dear Party Member Froehling:

Many thanks for your kindness to send me the "Economic History of Germany" and the pamphlet written by Wilhelm Rath. I hope to find a chance to read them soon. Please express my sincerest thanks to the Reichleiter also.

You may be sure of my lasting attachment to the economic-political organization of the Party. My tasks which keep me away from being active as an Economic Adviser of the Gau are the tasks of a Party member as you know.

Good luck for 1943!

Heil Hitler!
Yours,
[Initial] P [PLEIGER]

PARTIAL TRANSLATION OF DOCUMENT NID–15576
PROSECUTION EXHIBIT 3774

LETTER FROM DEFENDANT PLEIGER TO HERMANN GOERING, 19 DECEMBER 1942, THANKING GOERING FOR HIS APPOINTMENT AS STATE COUNCILLOR AND GIVING ASSURANCES OF ASSISTANCE AND LOYALTY, AND GOERING'S REPLY THERETO

Halensee, 19 December 1942
Albrecht-Achilles-Str. 60–64

To the Reich Marshal of the Greater German Reich, Hermann Goering
Berlin

Herr Reich Marshal:

May I express the sincerest and most profound thanks for the great honor bestowed upon me by the appointment as a State Councillor. By this appointment you have made me very happy, and I am sure you share my opinion that this honor means also a tribute to the work of the personnel of your works [Hermann Goering Works]. I feel it to be a serious responsibility of my office as your youngest State Councillor to lead this personnel in line with your ideas, to put it wholly in the service of those great tasks assigned to you by the Fuehrer in the fateful years for Germany.

With my thanks I am expressing at the same time my congratulations for the New Year on behalf of myself and my family to you, Herr Reich Marshal and to your wife, in faithful memory. The man, who has the good fortune to know by his own work a part of your work, is acquainted with the measure of worries and responsibility burdened upon you. It is my aim in the New Year to help you at least to a small share in unshakable loyalty with all my strength.

May the year 1943 bring you full success, Herr Reich Marshal.

Heil Hitler!

Yours respectfully,

[Initial] P [PLEIGER]

[stamp] Signed: PLEIGER

Reply Telegram from Goering to Defendant Pleiger, 31 December 1942, Expressing Gratitude for Pleiger's Successful Job

038 Telegram

German Reich Post

S Berlin F 82 31 2140

Director General Paul Pleiger

Received:

Menzel Str. 10

31 December 2200 hours

Berlin-Grunewald

by KLL

[Stamp] Berlin-Grunewald

1 January 43, 0609

Main Telegraph Office, Berlin

[Initials] OD

[Handwritten] To the files

Many thanks to you and Mrs. Pleiger for the congratulations transmitted to me and to my wife for the New Year. We too wish you sincerely all happiness, to you and to your family and particularly to my dear godchild. At the same time I am expressing my gratitude and my special appreciation for the successful job done by you in the past year.

Friendly greeting and

Heil Hitler!

Yours,

GOERING

Reich Marshal of the Greater Reich

PARTIAL TRANSLATION OF DOCUMENT NI-5667
PROSECUTION EXHIBIT 943

EXTRACTS FROM AN ARTICLE IN "THE MILITARY ECONOMIC NEWS"* OF 26 MAY 1943, CONCERNING THE DEVELOPMENTS OF MILITARY ECONOMY IN GERMANY AND ITS RELATION TO THE FOUR YEAR PLAN

From Military Economic and Armament Office [Wehrwirtschafts- und Ruestungsamt]

To Military Economic Staff [Wehrwirtschaftsstab] Development and Present Day Tasks. By Colonel Beutler of the General Staff and Chief of the Military Economic Staff, Foreign Division.

The leading office in German Military Economy underwent some considerable time ago a far-reaching transformation. It is interesting on this occasion to stop and observe the growth and development of this office. Only from such an observation can a real understanding of the present reorganization be obtained and its performance within the military-economic framework be appreciated.

The military economy [Wehrwirtschaft] or, as it was then called, the war economy [Kriegswirtschaft] is a child of the First World War. Previous to 1914, there were no preparations for it, and the ideas that arose here and there with such an aim in view probably led to discussions but not to deeds. This circumstance contributed essentially to the fact that the war economy in the First World War came only very slowly into action and had to go through many teething troubles. Despite all this, the performance in the war-economy field from 1914–18 remains admirable, even if this work did not lead to the goal.

For this was unfortunately the case. It is certainly not too much to say that we won the battles in 1914–18, although we lost the war itself. That we did lose it, was predominantly because of economic reasons. We were at that time crippled by hunger and the lack of raw materials and productive capacity, the more so as the German sphere of influence in the First World War was not so extensive as in the war in which we are at present engaged. Despite Versailles and the restrictions which the German Wehrmacht suffered under this dictated peace, the thought was never extinguished in the hundred-thousand-man army that this was only a passing phase.

* A notice attached to this publication states: "The Military Economic News is intended only for the offices of the Military Economic Organization. It may be desirable for reasons of expediency to pass on individual articles or notices to higher level offices. It is forbidden to pass on the copies themselves." The publication is marked "Secret within the meaning of Article 88 of the German Criminal Code." (This article defined "state secrets," the betrayal of which made the death penalty mandatory.)

The goal remained the restoration of freedom of armament and its application. Behind this stood the will, unexpressed but consequently all the firmer, to revise the peace of Versailles.

It was a matter of course in the quarters concerned with this matter that the question must likewise arise of including the very important field of military economy in this hoped for rearmament. For this reason, preparations were carried out already in the twenties in the Army Ordnance Office, which modest as they were, still formed a cell out of which one day a German military economic organization should again develop and in fact actually has developed.

The possibility of working freely again also in the military economic field, was prepared through the National Revolution of 1933. The decisive step, which was taken on 1 November 1934, was the transfer to the Office of the Armed Forces of the then newly formed small military economic department of the Ordnance Office. Simultaneously, the then Chief of Staff of the Army Ordnance Office, Colonel, GSC, Thomas, took his place at its head. The field of activity that lay before the then created military economic staff was a vast and unworked field. It lacked not only all legal and organizational preparation, but also, above all, the ideological foundations on which it must be built. Many who worked in it in those days will still remember, for example, the lively discussions in the effort to clarify the terminology of the new field of work, for example the definition of the terms "Wehrwirtschaft" [military economy], "Kriegswirtschaft" [war economy], "Ruestungswirtschaft" [armament economy], etc.

From the very beginning, it was clear that the building up of the German military economy could not take place in secret. The military economic activity intruded into the competences of nearly all the higher state authorities. It demanded from the various branches of the armed forces that they direct their efforts strictly to this task also. Above all was it necessary to gain the interest and finally the active, collaboration of the economy itself. The first step had to be to create the legal basis for the work at the ministerial level and to arrive at a clear cut division of the work in the realm of the higher Reich authorities, which at the same time would ensure collaboration. It was not easy, either, to carry into effect the division of tasks between the new Office of the Armed Forces and the Ordnance Offices of the three branches of the armed forces. Organizationally, it involved the building up of offices sufficiently suitable and capable to take over the preparation of an economic mobilization—at least in the realm of armament economy. Finally, outward connection with the organization of the economy was sought and found. It was essential for

this that the term "Wehrwirtschaft" should become known and its significance also understood by the economy.

It took years of work until the activity of the Military Economic Staff [Wehrwirtschaftsstab] was generally recognized and understood. It must be remembered that, during the same period, the economy was faced with other great tasks—one has only to think of the elimination of unemployment!—and that these tasks often appeared more immediately urgent than the preparations for a war, which at that time was not considered to be very probable. It was the Anglo-Italian conflict over the Abyssinian War in which was debated the question of sanctions that first aroused attention.

The result was an ever-increasing interest in the military-economic work in civilian departments, as well as in the economy itself. German rearmament itself proved to be an important factor in the preparation, especially of the armament economy. It created the productive capacity that today supports the armament economy in war. The military-economic effort now found its strongest expression in the development of the Four Year Plan, in which the strong personality of Reich Marshal Goering helped the will of the military economy finally to win through. There is no room in this article to go into the immense amount of detailed work performed by the Military Economic Staff and the Armament Inspectorates and Armament Commands. It is sufficient to state that this work stood its trial by fire when the war broke out in 1939. Armament was carried out according to plan in the military sector and produced, within the scheduled time, the results expected of it.

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TRANSLATION OF DOCUMENT KOERNER 303
KOERNER DEFENSE EXHIBIT 17

AFFIDAVIT OF THE FORMER REICH CHANCELLOR JOSEPH WIRTH,* 8 MARCH 1948, CONCERNING THE INTERNATIONAL SITUATION FACED BY GERMANY PRIOR TO HITLER AND THE OBJECTIVES OF GERMAN REARMAMENT

I, Dr. Joseph Wirth, born 6 September 1879, in Freiburg/Breisgau (Baden) now residing in Lucerne, Haldenstrasse 7, know that I shall be liable to punishment if I give false testimony. I hereby declare on oath, that my statements are true and were

* The prosecution did not request defense affiant Wirth for cross-examination.

made to be submitted as evidence to the Military Tribunal at the Palace of Justice, Nuernberg.

From 1914 to 1933 I was a member of a faction of the Center Party in the German Reichstag [Parliament]. From 1914 to 1918 I was a member of the Population Policy Committee [bevoelkerungspolitischen Ausschuss].

From November 1918 to March 1920 I was Finance Minister of Baden and from spring 1920 to 10 May 1921 I was Reich Minister of Finance and on 10 May 1921 I became Reich Chancellor. In November 1922 I resigned from the office of Reich Chancellor and not until 1929 did I become Reich Minister for Occupied Territories under Reich Chancellor Hermann Mueller.

Under Reich Chancellor Dr. Bruening, I was Reich Minister of the Interior in 1930 and 1931.

I should like to emphasize that I held no Reich Office in the period from 1923 to 1929. On the contrary, I was repeatedly in opposition to the governments in these years.

From my political and official activities I know most of the leading German politicians and soldiers, also numerous leading German economists of this period.

Between 1918 and 1932 all the German governments and also the Army High Command were filled with anxiety for the existence of the Reich, which they saw politically threatened from within and without. In the interior economic conditions led to increasing poverty and a politically radical attitude of the masses and to an increasing danger of civil unrest. From the outside there was the danger that a neighboring state might exploit the internal weakness of the Reich.

In the first few years after World War I, Poland had already made repeated attempts to cut off parts of Reich territory by force. Fear of further transgressions was not unfounded. Nationalistic Polish circles demanded further cessions of territory in Poland's favor. May I point out the extremist attempts of the Polish leader Corfanty in Upper Silesia who tried in three revolts to take Upper Silesia away from us by force. Unfortunately Corfanty also had the support of General Leront. As Finance Minister and Reich Chancellor I became the opponent of this Pole. Under the Reich government of Chancellor Fehrenbach and also under the government under my leadership, we tried carefully to avoid a conflict between the Poles and our Reichswehr. We were urged on several occasions to use our Reichswehr in Upper Silesia. Reich Minister Dr. Wirth and Reichswehr Minister Dr. Gessler discussed this problem with General v. Seeckt. General v. Seeckt stated forcefully that not a single Reichswehr soldier could be used in Upper Silesia. The

third and most dangerous Polish revolt was fought with poorly equipped volunteers [Freikorps].

There was once an incident on the Eastern border which misled German hotheads into speaking of interference in the Russian-Polish war in 1920. Reich President Friedrich Ebert and all the rest of us decided on absolute neutrality in the East. These things will give particularly emphatic evidence of our peaceable intentions. The fact that the Reichswehr was not used in Upper Silesia either in 1920 or 1921 earned me severe remonstrances from German National circles and later the National Socialists. After my resignation from the office of Reich Chancellor, the German National leader, Dr. Helfferich, made serious charges against me on this count in the Reichstag Committee for Foreign Affairs. We were determined not to arouse any international conflict. During the third Polish revolt in May 1921 the then first English Minister Lloyd George encouraged us not only to hold our own but to hit back. The press recorded this fact at the time. As previously mentioned we defended ourselves with volunteers and saved Silesia. We held our ground on the Oder whereas today an attempt is being made to gradually secure the Elbe for a so-called Western Block or a Western Union.

There was permanent unrest on Germany's eastern border. In 1930 and 1931 there was a new wave of great anxiety in the Eastern provinces of the Reich. I traveled through Silesia in my capacity of Reich Minister of the Interior in order to make clear to the representatives of all the parties that the Reich government was willing to defend Silesia. The mere intention of protecting German territory had a favorable effect on the population near the eastern border which was vulnerable everywhere. And yet our Reichswehr was very poorly equipped. The Reichswehr was in no condition to resist the Polish Army for any length of time. Reich Chancellor Dr. Bruening and Reich Defense Minister Dr. Groener decided, therefore, to evacuate Silesia in the event of a Polish attack.

Whoever, in the face of these obvious facts, still maintains that we had aggressive designs is to be pitied. We remained calm and composed in the face of all Polish provocations. In view of the deplorable state of the eastern German boundaries it was only natural that we kept our eyes open for possibilities to improve matters strategically.

The 100,000-man army left to Germany by the Versailles Treaty which was not allowed to use any modern, heavy arms such as airplanes, armored cars, heavy and long-range artillery, was not in a position to guarantee the protection of the national frontiers.

The unequal balance of power and threats from the East, which had materialized several times, made the German people and their political and military leaders acutely aware of the oppressive restrictions imposed by the Versailles Treaty. Furthermore, the continuation of these restrictions designed, according to the preamble of chapter V of the Versailles Treaty, as a preliminary move on the part of Germany and as a first contribution to universal disarmament were considered to be increasingly unjust as the other signatories took no practical steps to disarm.

In the light of Germany's position it is readily understood that the German Army Command which was responsible for the protection of the national frontiers wished to strengthen Germany's defensive power and that the German Reich Government recognized the justification for this demand.

The release from the provisions of the Versailles Treaty restricting Germany's national defense was not only the political goal of all German Governments but also that of all political parties.

May I be permitted to make a few more statements concerning Poland. Being southern German Catholic democrats any hatred of Poland was altogether alien to us. But it was just my friends and I who were most cruelly disappointed in our dealings with the Poles. At the same time we were constantly being charged with having betrayed and wanting to betray the East of Germany to the Poles. Upon the National Socialists' advent to power thorough investigations were made as to whether we had committed crimes against the German people, at least in neglecting to protect the German eastern frontier. In 1934 Arthur Rosenberg who later died by hanging announced that charges were to be preferred against Reich Chancellor Dr. Bruening and myself for high treason. The position of the German Catholics was gravely jeopardized. The charge that the German eastern boundary had been neglected by us, if substantiated, would have cost the lives of several hundred prominent Catholics. I learned about this imminent danger from a most reliable source. We shall stand, therefore, unimpeached before God and our own conscience if we state that we were not only anxious about the East of Germany but that we were anxious to fortify and secure the German eastern boundary. In addition, there is the fact that we merely attempted to paralyze Poland's aggressive plans. Poland was *my* task and it did not fail.

The fact that the Versailles Treaty was evaded to some extent was accepted by the Reich governments in the interests of defending the existence of the Reich. Moreover, the Allied governments were informed by the reports of the Inter-Allied Control Commission which supervised Germany's disarmament.

In spring 1928, when I visited Minister President Poincaré in Paris in order to find out whether the French Government was willing to consider the evacuation of the Rhineland, the French statesman pointed out to me precisely what evasions of the Versailles Treaty German Governments had undertaken. I was able to reply calmly and collectedly that there was no question of orders for heavy arms but that we were concerned merely with the study of armament technique and corresponding experiments. When I remarked that the armies of every era had made such experiments Poincaré replied with a friendly smile, without any thought of accusing us of a breach of the Treaty.

I could argue that all our efforts were based on the idea of defending the German Reich territory. Neither the government nor the Army Command thought of attacking a neighbor. Any such thought would have been madness considering the balance of power at that time and for many years to come. No responsible politician or soldier in a leading position could think of an aggressive war.

In order to complete this statement I should like to add that, to my knowledge, neither German industry nor German economy took the initiative in military political matters.

Lucerne, 8 March 1948

[Signed] DR. JOSEPH WIRTH[1]

TRANSLATION OF SCHWERIN VON KROSIGK DOCUMENT 325 SCHWERIN VON KROSIGK DEFENSE EXHIBIT 185

AFFIDAVIT BY DR. HANS SCHAEFFER,[2] STATE SECRETARY IN THE MINISTRY OF FINANCE FROM 1929–1932, CONCERNING THE "BLACK REICHSWEHR BUDGET" IN PRE-HITLER GERMANY AND DEFENDANT SCHWERIN VON KROSIGK'S CRITICAL ATTITUDE TOWARD IT

I, Dr. Hans Schaeffer, born 11 April 1886 at Breslau, residing at Joenkoeping, Sweden,[3] Vaestra Storgaten 16, have been warned that I make myself liable to punishment by rendering a false affidavit. I declare in lieu of oath, that my statement is true and that it was made in order to serve as evidence before

[1] See the letter of Joseph Wirth to Gustav Krupp of 9 August 1940, congratulating Krupp upon being decorated with the German War Merit Cross, First Class. This letter is Document NIK–8575, Prosecution Exhibit 132 in the Krupp case, reproduced in volume IX, this series, page 322.

[2] Affiant did not testify before the Tribunal.

[3] During his direct examination, defendant Schwerin von Krosigk testified that the affiant had lived in Sweden since 1932 (*tr. p. 22936*).

Military Tribunal IV at the Palace of Justice in Nuernberg, Germany.

In December 1929 I was appointed State Secretary in the Reich Ministry of Finance. I had previously heard sometimes of the so-called "black" special budgets of the Reich Defense Ministry when I attended cabinet meetings while Ministerial Director in the Reich Ministry of Finances, but did not pay any special attention to details.

After my appointment to the post of State Secretary I heard from my predecessor State Secretary Dr. Popitz and my closest collaborator in budget matters, the then Ministerial Director Graf Schwerin von Krosigk, the details about these budgets. To my recollection, an amount of 60 to 90 million reichsmarks was spent annually in order to keep the Wehrmacht by various ways and means in close touch with the progress made in the manufacture and utilization of certain weapons whose production and use was prohibited within the Reichswehr by the Versailles Treaty. The Reich Cabinet of Hermann Mueller, under whom I started my activity as State Secretary in the Reich Ministry of Finance, as well as to my knowledge former Reich Cabinets, had decided to establish and make use of such a budget. This decision was renewed later under the Bruening Cabinet. Discussions were openly held in the presence of all ministers about these budgets and the socialistic ministers and the Reich Chancellor Hermann Mueller knew, and approved of these measures. As these "black" budgets were not published and not subjected to the control of the Reichstag, a special group of officials was needed in order to control the proper and correct use of these amounts by the Wehrmacht. A board had been set up for this purpose, with the Director of Budget in the Ministry of Finance as chairman and the State Secretary in the Reich Ministry of Finance, and the officials in charge of the Army budget, as members; they were, to my recollection, the Ministerial Councillors Worbs and Reichardt and their opposite members from the offices of the War Ministry. Of the latter, I recollect the names of the former Brigadier General v. Hammerstein, Lieutenant Colonel Busch, Major Fromm and Commodore Waldeyer. A further member of the board was the former Minister Saemisch; but I do not remember whether in his capacity as President of the Reich Auditing Court or as Reichssparkommissar [Reich Commissioner for Economical Administration].

It was the task of the Reich Ministry of Finance officials on this board to scrutinize and control the estimates submitted by the Wehrmacht; their duty therefore was to restrict and slow down the activities of the Wehrmacht. For that reason negotia-

tions on the board were sometimes quite turbulent. [Schwerin von] Krosigk and his collaborators used to require the officers attending the meetings to furnish information on, and to account for, expenses incurred and did not make light of the examination of these statements as to their correctness. From one of the Ministry of Finance officials, and I believe even from Krosigk himself, I heard the remark which I still remember—"The Navy is always lying, the Army speaks the truth but rarely." Krosigk never encouraged on his own initiative the requests of the Reichswehr, but always reduced and diminished their demands. The military experiments concerned were mostly carried out outside of the borders of Germany. Considerable amounts served to my recollection for the maintenance of airfields and tank training grounds in Russia, but experiments with certain weapons took place in other countries too. I have been chairman of this board for 2 years and 4 months. That the Reich Defense Force [Reichswehr] was not happy about the control exerted by the Reich Ministry of Finance was the impression I gained all the time during these negotiations. Once the War Ministry even complained in writing of the fact that the Ministry of Finance did not show the necessary understanding for the interests of the Reichswehr. As a result I offered my resignation to the then Minister Dietrich and withdrew my request only after the Minister of the Defense Force Grooner very sensibly had rendered his apologies for the improper remarks made by his subordinate.

The German Cabinets which permitted these experiments to be carried out and financed them, for the following reasons: After Germany had been the first to carry out disarmament, the other powers were in Germany's view, under an obligation to follow this example. As it was already clear that some countries were not prepared to disarm on their part, a German request for limited rearmament had been made at various conferences and had been granted on principle. No agreement could be reached, however, on the extent of the rearmament. For such time when rearmament would be permitted, the required technical knowledge was to be maintained in the German Army.

The victorious powers of the Versailles Treaty, or at least some of those, were fully aware of these experiments being carried out. I am positive of this about the Air Attaché of the British Embassy who talked about it with various prominent journalists and even supplied figures. As I was personally acquainted with several of these journalists, I too, was able to get these figures which enabled me to control and correct the statements given to me by the War Ministry in committee; repeatedly the figures of the

British Embassy proved to be closer to the actual facts than those reported to us in committee meetings by the Wehrmacht.
Joenkoeping, 8 March 1948

[Signed] HANS SCHAEFFER

DOCUMENT NG–2918
PROSECUTION EXHIBIT 960

AFFIDAVIT OF PAUL KOERNER, 4 OCTOBER 1945, CONCERNING GOERING'S STATE OF MIND ON FOREIGN AFFAIRS, REARMAMENT AND OTHER MATTERS*

Oberursel, 4 October 1945

I, Paul Koerner, former State Secretary of the Four Year Plan and of the Prussian [State] Ministry, make the following statement under oath:

I always considered the Austrian question as a problem which Hitler would solve as early as possible at a suitable moment. In the spring of 1938 the situation was ripe and we could march into Austria without large military preparations.

When the Czech problem came up again after Munich, I saw the danger of war and Hermann Goering warned Hitler not to antagonize the world because this might lead to war. Goering was influenced by a discussion he had with Lord Halifax after Munich. I know this because Goering told me so.

The main preparations and political decisions in the Polish question were made within the last 3 months before September 1939. Goering emphasized in my presence that an attack against Poland would lead to a new world war.

The preparations for the war against Russia started in winter 1940–41. The Fuehrer was not satisfied with a visit of the Russian Foreign Secretary Molotov. He believed that Stalin might prepare an aggressive war against Germany at a moment favorable for Russia, and that Germany therefore should attack Russia first. We were advised about this matter by Goering who received his instructions directly from Hitler.

The economic and financial experts, advisers and officials, who participated, so far as I know, in the rearmament program were Schacht, Funk, and Schwerin [von] Krosigk. The details were discussed, so far as the *Four Year Plan* was concerned with State Secretary Landfried and General Hanneken of Funk's ministry. Formerly they worked under Schacht. Erich Neumann was my aide and did the technical details.

* Koerner's testimony concerning this affidavit appears in the extracts from his testimony reproduced in this section.

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The fact, that Goering was for a peaceful settlement is also known to his Swedish intermediary, the machine factory owner Birger Dahlerus from Stockholm who flew in the Reich Marshal's airplane between Berlin and London frequently. His contact people were acquainted with the British Foreign Office.

Goering's right-hand man in many private affairs was Ministerialdirigent Erich Gritzbach. He must know more about his financial deals than I. However, I know that Goering received regular payments from Reemtsma because Goering had been helpful to Reemtsma in 1933–34, when the Stormtroopers (SA) tried to establish an anti-Reemtsma cigaret concern and Goering intervened with the Fuehrer against the SA. Philipp Reemtsma was very friendly with Goering.

I know personally that Hermann Goering's godfather, Hermann Eppenstein, an Austrian baron, was a Jew by race. His last wife was Lilly Eppenstein, who was frequently in Goering's home. After Lilly's death, Goering became owner of the Eppenstein estate Veldenstein near Nuernberg.

Sworn, read, and undersigned
[Signed] PAUL KOERNER

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KOERNER*

DIRECT EXAMINATION

DR. KOCH (counsel for defendant Koerner): Mr. Koerner, please state your name and your last official position?

DEFENDANT KOERNER: Paul Koerner. I was last State Secretary of the Prussian State Ministry and after 1936 State Secretary for the Four Year Plan.

Q. Please give us a brief sketch of your life.

A. I was born on 2 October 1893, in Saxony, the son of Dr. Koerner, who later became a general in the Medical Corps. He was a corps surgeon and later on army surgeon in the First World War. On my father's side I come from an old theological family which from the Reformation until my grandfather's time produced scholars and theologians. My father was the first one in the family who broke this tradition and became a doctor. I first studied business, in order to take over the management of my mother's business. She came from an old commercial family. Then came the First World War.

* Complete testimony is recorded in mimeographed transcript 29 and 30 July 1948; 2, 3, and 4 August 1948; pages 14092–14225; 14383–14470; 14550–14650; 14694–14751. Further extracts from the testimony of defendant Koerner are reproduced in section VI H, this volume and in Volume XIII, sections X C 2, X D 2, X E 2 and XI C 1.

Q. What were the political views with which you were brought up in your home?

A. I didn't have an actual political education. However, I was brought up in a purely nationalistic and Christian way. This nationalistic education resulted from my father's position and from the traditions of my family.

Q. Not so long ago after you left school the First World War broke out. What did you do then?

A. I entered the Saxon Army as a volunteer, became an officer in 1915, and in the course of the war became a battery commander in my regiment, and took part in all the battles which took place on the Western Front throughout 1917. At the end of 1917 I was transferred to the General Staff for meritorious service, where I remained until the end of the war. Even at that time I had a position which much resembles that which I later occupied with respect to Goering. I was adjutant to the Chief Deputy of the General Staff of the Army.

Q. What did you do after the end of the war?

A. I first remained a soldier and wanted to remain an active soldier. In 1919 after the collapse following the First World War, Germany was plunged into serious Communist disturbances. I volunteered in a Freikorps and combatted the Communist uprisings in Berlin. After the conclusion of these struggles against the Communists and contrary to my original intention, I left the army in the spring of 1919, and started a tool factory with a friend.

Q. Had you ever entered politics in order to make a living or as a business?

A. No, in no way. My business took up all of my time. I had a good income from my firm, in addition to my private property.

Q. Now, I want to discuss your relations with the Party. When did you join the NSDAP?

A. In 1926.

Q. How did you come to do so?

A. When in 1926 Goering returned to Germany from his 3 years' exile in foreign countries, I made his acquaintance on the day he arrived in Germany through a common friend. Goering immediately made a deep impression on me. Through him also I met Hitler and Goebbels in 1926.

Q. Now in 1926 what was the general situation that Hitler found himself in?

A. After his arrest following his putsch in 1923 he had been released. However, he was prohibited from making speeches in Prussia. When I met him he was speaking to a closed group in Berlin. Goebbels also spoke at this meeting. Both these speeches

made a deep impression on me, but I must say particularly Goebbels' speech. This was also the incentive that induced me to join the Party.

Q. Your immediate connection with the Party was through Goering. How did your relations develop with Goering in the years following?

A. When, as I have already said, Goering returned to Germany in 1926, he of course busied himself for the NSDAP, to be sure in a private capacity. He had also no official position in the Nazi Party at that time. From the very first day on I had made friends rapidly with Goering. In 1928 Goering was elected to the Reichstag, and he drew me as a friend closer and closer to him, and I helped him where I could. As time went on I was able to devote less and less time to my business; therefore, in 1930, after the Nazi Party had its great success in the election, Goering suggested that I make myself officially available to him.

Q. And you did so?

A. Yes, I did. I separated from my firm so that I might be completely independent and devote myself wholly to Goering.

Q. You say you separated from your firm. What did you live on then? Were you economically dependent on the Party?

A. No, in no way. No, I lived on my private income, which I drew from various enterprises, but I never drew any salary either from Goering or from the Party; nor did I exercise any functions in the Party or occupy any offices. From the first day of my entry into the Party on until 1945, I was only a member of the Party.

Q. Good. You have already mentioned that you were friendly with Goering. Please characterize your relations with Goering, briefly.

A. From 1926 on until the end, the important thing was a purely human friendship. For Goering and his personality, despite the failings he had which are well-known, I had a deep inclination and respect; and I believe I may also say that Goering felt toward me the same sort of friendship.

Q. Now that was the personal side. What about your actual collaboration?

A. In the time up to 1933, when I was his adjutant and first coworker, and also in the first months after the Nazi accession to power I, of course, came into contact with a great many of the actual and factual decisions of Goering. Let me emphasize that Goering insisted on having his own way and it was very difficult frequently to conduct yourself properly with him. Of course Goering discussed many things with me that he did not discuss with others because he had confidence in me. But it is clear that

I had no influence on any decisions that Goering arrived at. Goering listened to my opinion and accepted it or turned it down. Anyone who knows Goering will be able to corroborate the fact that he was the one who did the deciding. In the period thereafter, the situation changed somewhat, but I am anticipating now. The years intervening are considerable in number. What happened was that Goering placed his friendship for me in the foreground to a greater and greater extent and limited our contact to the personal aspect. Collaboration on the actual level took place only in my immediate sphere, namely, in the Prussian State Ministry, and then, after 1936, collaboration in the work for the Four Year Plan.

Q. Good. You say Goering put the personal aspect in the foreground and that your actual work was confined to your particular sphere. Then these personal relations must have made your actual work easier?

A. Unfortunately that was not always the case. The more work that fell on Goering's shoulders, and the greater his cares became, because of the over-all political development, which he foresaw very early, the greater his inclination became to have only personal relations with me, and no others, so that often I could not even bring important matters before him, which I wanted to do so that I could go forward in my work on the basis of his decisions.

Q. What you are saying, Witness, is that your personal friendship with Goering made work more difficult and limited you to a very specific field. That is rather surprising. Are you referring now to individual instances, or was everything involved in your collaboration with Goering at that time to be characterized in this way?

A. The more we worked together, the stronger what I just outlined became. The cares that I mentioned made their mark on him and in the most difficult years of the war this condition became intensified, so that at this time, even when I needed very rapid decisions, I was not able to speak with Goering. Things often went so far that I would let him know at his headquarters that I had to see him, to arrive at an important decision, and he would say of course I could come, but if it was at all possible he did not want me to bother him with business. His head was too full of it as it was. And precisely because of this friendly relation that I had with him, this made things particularly difficult.

Q. When did this develop—this, which you just described?

A. Shortly before the war, and then during the war. At first it was not so pronounced and then, after the middle of 1941, it became much more pronounced.

Q. You were friends with Goering. It can be assumed that you were his confidant. You said that he discussed many things with you because he had confidence in you. On the other hand, you said that things that did not fall within your sphere of work were not discussed between you two at all. Well, now, what was the actual situation? Were you his confidant, or were you not?

A. In human matters I was certainly his confidant, but in official matters, particularly matters that were discussed between Goering and Hitler, I was not his confidant. That may sound strange, but that is the way it was. Connected with this, of course, is also the fact that Hitler promulgated extremely stringent secrecy regulations and had also instructed Goering not to speak of matters that concerned no one else but those two, to any third person. Since Hitler certainly discussed with Goering matters that he did not discuss with any other party, that was a general prohibition which Goering observed, an attitude on Hitler's part which Goering respected.

Q. You are trying to say that the secrecy prohibitions that Hitler insisted on were observed by Goering?

A. Yes. I want to emphasize that explicitly. Goering never discussed secret matters with me that he had discussed with Hitler, on the basis of this promise that he had given Hitler. He stuck to this absolutely. I can give no example even now, after I have seen much more evidence than I had then, of his having violated this prohibition.

* * * * * * *

Q. Now, we shall turn to another subject, your personal relations to Hitler. When did Hitler first see you?

A. As I have already said, at the end of 1926.

Q. And how did your relations with Hitler develop after you made his acquaintance?

A. In the first years I met him very infrequently, that is, from 1926 to 1928. From 1928 on we met each other frequently, that is to say, the Fuehrer came frequently to Berlin and whenever he did I of course, since I was with Goering, saw him.

Q. What was Goering's position at that time?

A. 1928 to 1930 Goering was simply a member of the Reichstag, so they met only as old war buddies, and discussed this or that subject that Hitler was interested in, which he wanted Goering to represent in the Reichstag, but the sort of close political cooperation that later arose did not exist at that time.

Q. When did this develop, this collaboration between Hitler and Goering—what was Goering's capacity at that time?

A. After the election of 1930 Goering's influence increased in Berlin's public life. It was a matter of course that after these

parliamentary successes a great many people who had kept a distance from the Party now became interested in it and Goering along with Goebbels was the Party's strongest personality in Berlin. Consequently, it was a matter of course that gradually a political life should develop around Goering.

Q. Mr. Koerner please be brief. I am just asking about your relations to Hitler. Please answer the question what position Goering had in 1930 in Berlin.

A. After the 1930 Reichstag elections, the Fuehrer appointed Goering as his political deputy in Berlin. That was a sort of official title, which however had nothing to do with the Party, but only made clear Goering's relations to Hitler, namely, stated that Goering represented Hitler's interests in Berlin.

Q. So when you did meet Hitler, was it frequently that you had discussions with him?

A. From this time on Hitler often came to Berlin. That was a matter of course because gradually the Party was extracting itself from the Munich atmosphere and taking on the general national atmosphere. In these meetings between Goering and Hitler I was usually present.

Q. Good. Did you have factual discussions with Hitler?

A. No, of course not, not in general.

Q. Now, that was all in 1933. How did your relations develop after that?

A. After the Nazi Party had acceded to power, the working relations between Hitler and Goering became stronger and stronger and it resulted, since I was in Goering's anteroom, that I was frequently sent to present matters to Hitler, so that Goering could get Hitler's decision on such matters.

Q. Just to be precise, when was this?

A. After 30 January 1933. It lasted all the way through 1933 after I became State Secretary in the Prussian State Ministry.

Q. How about 1934?

A. From 1934 on I went to the Fuehrer less and less frequently, because in the meantime Goering had appointed a liaison man, the later General Bodenschatz.

Q. Now, about how many times up to 1936 did you visit Hitler then?

A. Every couple of months I may have been with him, namely, Hitler. It might happen that Goering wanted something put to Hitler, not by Bodenschatz but by me. After 1936 I saw Hitler, as I remember, only twice. He ordered me to visit him to give him statistics that interested him.

Q. You said "twice." You mean twice until the war, or twice in total?

A. Yes, twice before the war, from 1936 to 1939.

Q. And what was the reason for your seeing Hitler so infrequently, although the Four Year Plan, which you were in charge of, was something that interested him?

A. Goering saw Hitler almost every day, and the questions regarding the Four Year Plan that interested Hitler he asked Goering directly.

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Q. Witness, you have been charged under the count of aggressive warfare, above all in connection with the Four Year Plan. Please be good enough to be very brief in describing to the Tribunal what were your experiences and how the Four Year Plan came into being. What did you experience yourself and what did you think at the time? It is not necessary to go into any general statements or elaborations.

A. The general miserable state in Germany of 1933 and prior to 1933 is known to everyone. The unemployment figures were enormous; businesses went bankrupt; every day public auctions took place—public auctions of agricultural property. The result was an incredible increase of votes in favor of the Communist Party. As far as I was concerned, the entire economic sphere came into being for the first time when Goering, in the conflict between Schacht and Darré, was appointed to procure for Darré the necessary foreign exchange to cover the expenses of the quantities of grain that had to be purchased abroad. This conflict was the first precursor, which ultimately led to the creation of the Four Year Plan. At that time, in the preceding years of 1934 and 1935, Germany had had actually two very bad harvests, and did not have sufficient quantities of bread grain available to feed the population. The shortage amounted to approximately 2 million tons, as compared to a yearly consumption figure for the old Reich of approximately 12 million tons of bread grain. The question was either to import the short quantity in grain or introduce rationing in peacetime. Hitler and Darré were against any rationing and Darré asked that Schacht furnish the necessary foreign exchange in order to be able to purchase the necessary bread grain abroad. Schacht refused and stated that he had no foreign exchange available which might permit him to make that available to Darré for these purposes.

Q. When did this take place?

A. This was in the winter of 1935–36.

Q. Goering had been given an economic assignment at that time?

A. Yes.

Q. Did Goering continue other activities in this same sphere?

A. Yes. In the spring of 1936, in view of the foreign exchange situation that prevailed in Germany, Germany was not able to import sufficient fuels to cover its requirements. In view of that Hitler ordered Goering to carry on what Herr Keppler had already initiated, that is, the expansion of gasoline production.

Q. What did Goering do to bring this about?

A. For these purposes, and in his capacity as Reich Air Minister, he instituted, in his Reich Air Ministry, the Raw Material and Foreign Exchange Staff; and this Staff thus became the second precursor of the later Four Year Plan.

Q. And did you participate in any manner at that stage?

A. No. But very soon thereafter, after the Raw Material and Foreign Exchange Staff had been called into life, I was called in, by virtue of the fact that the chief of the staff, Major Loeb, was not capable of handling the complicated foreign exchange problems. Therefore the Prussian State Ministry, of which I was the State Secretary, with its apparatus of old and expert officials, was called in and entrusted with the handling of the questions involving foreign exchange.

Q. That was a piece of prehistory leading up to the Four Year Plan that you gave us. In the fall of 1936 Hitler then announced, at the Nuernberg Party Congress, the Four Year Plan proper. At that time what was your reaction to the Four Year Plan?

A. The Four Year Plan was an absolute necessity. The fact that we could not procure the raw materials from abroad that we required was one which I just illustrated to you in giving you the two practical examples. It proved impossible to obtain sufficient quantities of bread grain and this impossibility, of course, was one that all of us dealt with in a very concentrated manner. Apart from that it was clear to us that in view of the situation that prevailed, Germany would absolutely have to be the vanquished party in any war that broke out, because it did not have the necessary raw materials available which it required for its own defense.

Q. From what you are just telling us, Witness, the Four Year Plan therefore had military-economic aims too. Is that correct?

A. Yes, of course the Four Year Plan also pursued such objectives. I do not by any means propose to deny that. The Four Year Plan pursued both economic objectives for times of peace as well as in the military-economic field. That is the way I understood it right from the start. Later on Goering, on repeated occasions, expressed this very correctly and in suitable language. It was said that the Four Year Plan was to strengthen us against dangers of crisis. That referred to the economic sphere; and it

was to make us safe from the effects of any blockade—that referred to the field of military economy.

Q. From what you say, the Four Year Plan was simultaneously to serve objectives of rearmament?

A. Yes. It was designed for that.

Q. Witness, the prosecution is charging that you perforce knew that German rearmament was designed to serve aggressive wars. What were your thoughts along these lines at the time involved?

A. This point of view is absolutely erroneous. Today if people say that the Four Year Plan or rearmament was designed to serve a war of aggression it is absolutely erroneous. At that time all of us were still suffering from the fears of the past 15 years, and were suffering very intensely. I used the word "fears" because this is the only word capable of showing how great our preoccupation was—a preoccupation which had pursued and accompanied every German since 1919, without interruption, who thought along political lines and entertained national sentiments. Hitler spoke a great deal of the Bolshevist danger, and in general that was the strong steady pressure. Still nearer to Germany was the Polish danger. We were completely defenseless against Poland and its repeatedly announced plans of aggression in the newspapers. Taking all of this jointly, I have to say that the state that prevailed was a very bad one. It was therefore the most natural thing in the world that we had to rearm just as soon as we could. In modern warfare in the same way as it is necessary to train and arm soldiers, it is necessary to introduce military economy; and in view of that, it was just a simple matter of course for me that the Four Year Plan had to insure and support objectives in the sphere of military economy.

Q. Your Honors, I would now like to submit to the witness Hitler's memorandum of 1936 on the Four Year Plan. I am referring to Document NI–4955, Prosecution Exhibit 939,* contained in document book 118–A. Herr Koerner, it isn't necessary for me to show you this memorandum at this time. You are acquainted with its contents. I wish to refer to a very critical item contained in this memorandum where it reads, page 34 of the English, that "there was talk of the extension of our living space." What you told us, Herr Koerner, sounds very plausible but referring to this "extension of our living space," didn't you have to interpret that to imply a militant solution of the problem?

A. No. By no means. Hitler is explaining the necessity of expanding our living space as meaning the basis for the expansion of raw material and food supplies. As far back as I can think, this question has always been subject matter of discussion

* Reproduced earlier in this section.

in Germany, even at the time of the First World War, and it was discussed on very broad lines by the democratic political parties, by Friedrich Naumann, who formed his concept of Central Europe.* The idea of a European union being formed, particularly in a southeastern direction, in order to expand German supply bases, was an idea which was already a very topical one at the time I am referring to.

Q. And were suitable measures undertaken on the part of Germany?

A. Yes, of course.

Q. What were they?

A. A treaty with Rumania in 1938, which opened an entrance to us to the Rumanian wheat and oil fields; the new plan developed by Schacht, which spoke in favor of southeastern expansion prior to the Four Year Plan; and the situation is similar in connection with all the economic treaties concluded, and also in German projects in overseas countries—projects which we tried so very hard to bring into reality, above all in the years preceding the outbreak of the war, within the scope of the Four Year Plan. Expansion of the raw materials and food basis by no means implies a militant solution.

Q. You were just speaking of overseas countries. Germany reclaimed its former colonies. Wasn't it necessary at least for war to break out in connection with this claim?

A. No. Particularly in respect to this problem I always held the opinion that the colonies which had been taken away from Germany by the provisions of the peace treaty of Versailles would possibly be returned to Germany by peaceful means. I think that I was right in my thought.

Q. Despite that, Herr Koerner, if we are to sum up everything that you tell us, Hitler's memorandum would still allow two constructions—the militant and the peaceful. What is your answer?

A. I deny that absolutely. The Four Year Plan, and Hitler's statements cannot possibly be judged separately. Hitler only spoke of peace, and we believed him. If ever I thought of war, it was always along the lines of defending Germany against Russia and Poland. Particularly on the occasion of the Party Congress of 1936, at which the Fuehrer promulgated the Four Year Plan, Goebbels had emphatically stressed the danger emanating from Russia. Subsequent doubts that arise can only be seen from today's point of view because we now know that Hitler led to war, but in any case it is necessary for you to think back to the thoughts that prevailed at the time under consideration.

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* Reference is to "Mitteleuropa" ("Central Europe") by Friedrich Naumann (G. Reimer, Berlin, 1915).

At that time Germany was almost entirely powerless. I can only assure you over and over again that the most remote thing in the world for me was to entertain the very Utopian thought of a war of aggression. In my opinion everyone else was subject to the same train of thought as I was then.

Q. And if I now submit to you the closing part of Hitler's memorandum where it reads specifically that the German Army was to be made capable of combat duty within 4 years, and the German economy was to be rendered capable of waging war within a 4-year period, do you still maintain your opinion?

A. Yes, of course. I even thought this period of time to be ample because unless German economy and the German Wehrmacht had been placed in a suitable status, we couldn't even entertain the thought of suitably defending Germany. Furthermore, on my part I refer to the entire first portion of the memorandum in which Hitler only speaks of Germany's defense and of saving the nation from dangers emanating in the East. You cannot tear this memorandum apart. All we could do was to accept it as an entity, when in the late summer of 1936 Goering read it out to us.

Q. I would now like to submit to you another document. I am referring to Document EC–416, Prosecution Exhibit 940,*, document book 118–A, page 46. At the end of the session here, Goering says, page 46 of the English, "All measures are to be undertaken in such a manner as though we were already threatened with a state of war." Doesn't this permit the conclusion to be drawn that Germany had the intention to wage a war of aggression?

A. Here again you are looking back *ex post facto*. The statement was in complete conformity with our basic principles and concepts at the time, that both Russia and, as Hitler emphasized over and over again, Poland were threatening Germany in an extreme degree. Goering might just as well have said that the measures had to be carried out very speedily, not as if we were actually in the stage of imminent danger of war—page 48, Your Honors, not 46—but that they had to be carried out in a speedy manner because we were actually in a stage of imminent danger of war. The dangers emanating in the East at the time were particularly acute. Civil war was raging in Spain and in France there was a government of the "Front Populaire."

Q. In order to be as brief as possible, I will pass over a number of documents of similar nature, Your Honors, and I will now pass over, using the same book 118–A, to Prosecution Exhibit

* Reproduced earlier in this section.

942, page 60 of the English, 70 of the German, EC–373.* Herr Koerner—Thomas, as Chief of the Military Economic Staff of the Wehrmacht itself—to be sure, judging the situation at a later date—says, "The Four Year Plan represents military economy in its purest form." This is at variance with the statement previously made that the Four Year Plan pursued objectives both in the field of military economy as well as civilian economy.

A. This is the language of a soldier and in addition to that it was used in a public lecture. No responsible civilian at that time would ever have used language of this type. As far as our work in the Four Year Plan was concerned, on the contrary and despite all danger of war, the most emphasis was placed on peaceful activity, because it was designed to cover our most urgent requirements of the day and particularly to alleviate the acute situation in regard to foreign exchange. The achievements in the field of military economy were desired, yes, but as far as we were concerned this was a sideline.

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Q. Herr Koerner, I now hand to you document book 118–A, page 70 of the English, 147 of the German, [Prosecution] Exhibit 945, NI–5380.* Your Honors, this is a transcript of a meeting of the Advisory Committee on Questions of Raw Materials, held on 26 May 1936, Goering presiding. I ask the witness to look at this document and to comment on it.

A. The reference made to this prosecution document is one that suits me very well indeed. First of all, I beg to point out that the meeting took place before the Four Year Plan was promulgated. It took place at a time when there was no talk whatsoever of the Four Year Plan's coming into existence. Apart from that, the document actually contains a tabulation of German economic requirements, from the lack of which all of us suffered. Any one reading this document must easily understand the reason why the Four Year Plan had to be called to life, for problems of civilian economy alone.

Q. That is correct, Herr Koerner, but nevertheless this document also mentioned the "A-Fall" ("A-Case"). That is the case of war. And it also speaks of Wehrmacht requirements, if you will be good enough to check on that.

A. Yes, correct, and in answer to that I can only repeat what I have stated previously: We thought a lot of the A-Case, but it never occurred to us that Germany would attack. We were anticipating an attack on Germany.

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* Reproduced earlier in this section.

Q. Very well. Let us now pass to a new group of documents.

JUDGE MAGUIRE: Did the witness misspeak himself? He said they were not thinking of an attack on Germany?

DR. KOCH: Witness, please be good enough to repeat your answer. What kind of an attack were you thinking of?

DEFENDANT KOERNER: We were not expecting an attack to be carried out by Germany, but we were expecting an attack on Germany.

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Q. Herr Koerner, yesterday as well as this morning, you gave certain testimony, and if we are to sum up the tenor of your testimony, it corresponds in many instances to statements made by Goering, but your statements are in part at variance with Goering's statements; in view of that I beg to refer you to document book 118–B, to pages 218 and 224 of the English, 378 and 390 of the German.

PRESIDING JUDGE CHRISTIANSON: What was the exhibit number, Counsel?

Q. Your Honor, 964 and 966: NI–051 and NI–090 are the document numbers.*

Herr Koerner, would you compare these documents—the first one is a speech held by Goering in December 1936 in the Preussenhaus before responsible representatives of industry and economy and the second document is a speech held in March 1937 to representatives of the iron industry. In the first speech of December 1936 Goering speaks of the conflicts that Germany will have to face and also says that Germany is striving for the highest possible aim. There are other similar statements. I now put the question to you—Didn't you have to gather from this that the Four Year Plan was designed to prepare Germany for war, and perhaps even designed to prepare Germany for an aggressive war?

A. I don't deny that such statements or similar statements were made by Goering, here and elsewhere. Of course the document is not an official document but it is a record drawn up subsequently by an economic group; therefore it is not certain that Goering actually used the language given in the record. It is possible that he did. You can understand Goering's language only if you know the conditions that prevailed at the time. I once again recall to your mind that just a few months before this, on the occasion of the Party Rally, Hitler and Goebbels had stressed most emphatically danger which was threatening from Russia. I also said previously that the year 1936 was the year

* Document NI–051, Prosecution Exhibit 964, and Document NI–090, Prosecution Exhibit 966, are reproduced earlier in this section.

of the struggles with the Communists in Spain, and the year when the Communists ruled in France by the government of the Popular Front. Therefore, we were all under the impression that bolshevism was definitely on the offensive. This was absolutely clear to all of us at the time and when Goering spoke of conflicts that Germany was going to have to face no one thought of anything but the conflict that might arise with communism. At that time, according to my opinion, it was definitely not we who were proposing to bring about any conflict with Russia or were designing to bring about any such conflict.

Q. Were these all the considerations that played a part at the time?

A. No. All of us were also afraid that one day Germany might again have the entire world as enemies because it had again become strong and flourishing. Now, whether this misgiving was right or wrong I wouldn't desire to discuss, because it is not part of this trial. At any rate, we did have these misgivings.

Q. Herr Koerner in the answer before the last, you said that Goering had also made similar statements elsewhere, similar to the ones contained in the document which we have just been discussing; that is an important point and I would therefore like you to comment upon it.

A. Yes. Repeatedly Goering used very wild language. I don't know what else to call it. None of us interpreted such language differently than in the sense that it was intended; that is, it was a kind of mania with Goering. It may have been a bad mania, because he liked to use violent language, but that is all it was. As I have already said, Goering was a man who loved peace, and therefore he lived under constant worry of war breaking out. Who ever knew him more closely therefore, could never consider any wild language he may have used as expressive of his desire for war. If such misunderstandings ever did arise, they could be incurred only by outsiders.

Q. Therefore, what you want to tell is that you yourself couldn't possibly misunderstand that language. Do you believe, Witness, that Goering intentionally used such language or, on the contrary made such statements always spontaneously?

A. The latter statement isn't quite applicable to the case. It often happened that he very intentionally used such language because he hoped to thereby break the violent resistance offered by industry. Industry, of course, was inclined to safeguard private interests and to pay attention to private industrial considerations.

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Q. I will now pass over to the next document, page 197 of the English, 355 of the German, Exhibit 960, Document NG–2918.[1] Herr Koerner, this is your own affidavit given to Dr. Kempner as early as 4 October 1945. What do you have to say to that?

A. At this point I want to refer to one thing and to say that already at that time I gave the assurance that Goering had warned Hitler of the Czech problem after the Munich Conference. As far as the attitude taken to the Polish and Russian question is concerned, I would like to tie it up with these two problems and I would like to stress that in this affidavit too I emphasized Goering's love of peace in several portions of it.

Q. On my part I am anxious to prove the credibility of this prosecution document. Will you, therefore, please say whether you drew up this affidavit and signed it under any coercion or any pressure?

A. No, under no coercion.

Q. Everything contained in this affidavit is in conformity with the true opinion that you held at the time?

A. This document came into being as a result of several discussions that I had with Dr. Kempner and then in a few brief words a summary was drawn up comprising everything that I had said. However, it was drafted in the English language and it may be that certain discrepancies of language may have crept into the English text.[2]

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Q. I would like to submit a further question to you, concerning the initiation and creation of the Hermann Goering Works. Please refer to Document NI–002,[3] page 249 of the English, 466 of the German, [Prosecution] Exhibit 969. This is an article from the "Voelkischer Beobachter" dated December 1940. It reads here that Goering's decision to create the Hermann Goering Works was, above all, based on questions and problems of military economy.

A. I can only say, over and over again, that I know from my own experience that this is wrong. This article was written subsequently, and from the perspective and viewpoint of wartime conditions, it was intended for publication to the masses. In the case of the "Reichswerke," considerations of peacetime economy were just as decisive as considerations of military economy; in this case the peace objectives were absolutely in majority

[1] Document NG–2918, Prosecution Exhibit 960, reproduced earlier in this section.

[2] Concerning interrogation practice in Nuernberg, see General Taylor's "Final Report to the Secretary of the Army on the Nuernberg War Crimes Trials under Control Council Law No. 10," 15 August 1949, (U. S. Government Printing Office, Washington, D. C.). This report contains a special section on "Interrogation," pages 58–62.

[3] Document NI–002, Prosecution Exhibit 969, reproduced earlier in this section.

over the others. Furthermore, even in this article it says that in peacetime the "Reichswerke Hermann Goering" would be a very important factor in German economy.

DR. KOCH: Your Honors, I do not wish to discuss further the reasons for the creation of the Hermann Goering Works with this witness, and I beg to refer to the testimony of Ministerial Director Marotzke—M-a-r-o-t-z-k-e—who, for many years, together with the witness Koerner, worked on the Hermann Goering Works problems. Furthermore, Your Honors, in accordance with the program set up for the general defense, this will be gone into in connection with Herr Pleiger's case-in-chief.

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Q. And now, Herr Koerner, we will pass over to the last period prior to the outbreak of war. In the documents you will find this starting approximately in July 1938. What can you tell us, generally, about that?

A. As far as rearmament is concerned, this period is to be subdivided into an upward and into a downward trend; that is, a period of great trouble, comprising the middle of 1938 and the fall of 1938, and shortly thereafter, a period when calm set in.

Q. Using the documents, however, I would like to go into closer detail. First of all, I will have handed to you the documents to be found on pages 253 and 265 of the English. Unfortunately I do not know whether it is [document] book 118 or 122, but we will hear in a minute. These are pages 472 and 512 of the German. The exhibit numbers are 970 and 971. The documents are R–140[1] and 1301–PS.[2] This Document 1301–PS is a collective document compiled in a form which does not render it at all comprehensible. Herr Koerner, in connection with this Document 1301–PS, I call your attention to the conference that Goering held on 8 July 1938 with the aviation industry, at Karinhall. At the same time, I also refer you to the conference of 14 October 1938 held by Goering in the Reich Aviation Ministry. What do you have to say to that?

A. I did not attend the first session, which was exclusively a Luftwaffe session. The second conference was attended by me. In order to render this more comprehensible, you have to bear in mind that in March 1938, Austria had been incorporated into the Reich and that throughout the summer of that year the Sudeten crisis was raging, which later, on 30 September 1938, was terminated with the Munich Agreement.[3]

[1] Document R–140, Prosecution Exhibit 970, ibid.
[2] Document 1301–PS, Prosecution Exhibit 971, ibid.
[3] See section VI D, this volume, for further discussion of this subject.

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Q. If I understand you correctly, you want to say that the statements are rendered more comprehensible by an understanding of the political tension. But, even if you do bear in mind the political tension, there are some forms of language used by Goering in the two conferences which are very close to war. In the October conference, he speaks of a gigantic program of abnormal increase of armament; he speaks of increasing the Luftwaffe to five times its strength; and he says that he will make drastic and barbaric use of the powers he held. What do you have to say to that?

A. What you say is right. You have to remember that the tension prior to the Munich Agreement, which had the Western Powers not intervened, would have led to war, had everyone much excited, including Goering, too. That is the reason for these radical orders being given. Nobody felt very safe, in view of the fact that we had by sheer luck bypassed a very serious danger. And now it was all the more necessary for us to do everything in our power to become as strong as possible, which was clear to everyone concerned. I refer now to the conference held with the aviation industry. I only heard of this conference subsequently.

JUDGE MAGUIRE: What was the date of that conference?

DR. KOCH: Just a minute, Your Honors, please. The second conference took place on 14 October 1938.

PRESIDING JUDGE CHRISTIANSON: That is not the airplane conference, is it? That is the one in July, I believe.

DR. KOCH: No, Your Honor, that was the conference in the building of the Aviation Ministry. The first conference took place in July, with the aviation industry. The second conference took place in the building of the Aviation Ministry, and that one was on 14 October 1938. The witness is now proposing to discuss the second of the two conferences . . . No, I beg your pardon, he mentioned the aviation industry. He is going to speak of the first conference, the one with the aviation industry, not the one held in the building of the Aviation Ministry.

PRESIDING JUDGE CHRISTIANSON: The one that was held on 8 July 1938. That is Exhibit 970.

JUDGE MAGUIRE: Well, that is the one we have been discussing?

DR. KOCH: Yes, Your Honor, 970.

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DR. KOCH: We had got to Exhibit 960 for Koerner, that was this aviation [industry] meeting where you were not present. In the area of the two meetings, you wanted to say something about that.

DEFENDANT KOERNER: As I have already said—

PRESIDING JUDGE CHRISTIANSON: Just a moment. This is Prosecution Exhibit 960?

DR. KOCH: 970.

PRESIDING JUDGE CHRISTIANSON: That is right, all right.

DEFENDANT KOERNER: I only heard of this aviation [industry] meeting afterwards. Goering said the same thing to me more or less, that he said at the meeting. He mentioned his constant anxiety for the German people. He also said to me that what mattered was that the German people be saved. His theory was especially that it no longer rested on Germany that peace be maintained. In the summer of 1938 the thing that moved us and afterwards too after the Munich Agreement was the fear of new encirclement of Germany and fear of an attack from outside, but it is exactly the reverse of what the prosecution sees in it.

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DR. KOCH: Mr. Koerner, Goering also said other things at these meetings. I think in the last one here he said, among other things, he wanted a bomber to carry five tons of bombs to New York and come back again. How about that?

DEFENDANT KOERNER: Well, this may seem credible today or it may not. Such remarks by Goering on that scale should not be taken seriously by anybody. Goering had to say things like that from time to time. He liked it and it didn't hurt us. In this case the ridiculous character of such remarks is particularly clear. At the same meeting where Goering wanted these long-range bombers, he congratulated [General] Udet because of a development of the JU–88—Junkers 88. He described that type as a great achievement by the German Luftwaffe.

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Q. There are two exhibits 973,[1] and 974,[2] Neumann and Donner. Would you briefly comment on that, Mr. Koerner, as soon as the Tribunal has the documents?

PRESIDING JUDGE CHRISTIANSON: You may go ahead.

DR. KOCH: Mr. Koerner, please?

DEFENDANT KOERNER: Both State Secretary Neumann and Oberregierungsrat Donner were members of my agency, the Four Year Plan. Neumann's report was also written by Donner and that is shown by this document. I don't want to subscribe to every word, but by and large it is correct.

Q. But, Mr. Koerner, the prosecution obviously draws a conclusion from the documents that the Four Year Plan prepared the war of aggression; if you would be a little more detailed?

[1] Document NID–13844, Prosecution Exhibit 973, reproduced in part earlier in this section.
[2] Document NID–13894, Prosecution Exhibit 974, reproduced earlier in this section.

A. Well, it's quite correct that the Plenipotentiary for the Four Year Plan, that is, Goering, had the highest economic position of power and was supposed to have it. It is also correct that we were afraid of a crisis blockade and felt that we were in the hands of other powers. Finally, it is correct that the Versailles Treaty increased to a considerable extent Germany's dependence on others for raw materials. The Four Year Plan existed in order to make it possible for us from our own strength and our own soil and all the means of our science and in particular with our working strength to do what other people in many cases were given by nature. Anyway, both reports are wartime reports and on that account, of course, they are tinged by that fact. People wanted to show how capable they were and where Neumann talks of Hitler's memorandum of 1936 I have already commented on that. One must say again and again that the Four Year Plan always seemed to me to be something natural and a matter of course and has remained that to this day. There is no need to think of war of aggression in order to recognize its justification.

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CROSS-EXAMINATION

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MR. LYON: Now, I'd like to turn to the Hitler memorandum of August 1936 which was referred to on direct examination which I think is well known to the Court.[1] Was this memorandum a secret matter?

DEFENDANT KOERNER: If I understand you correctly, you're referring to the document concerning the Four Year Plan, is that right?

Q. That's right.

A. Yes. This document, as a matter of fact, was issued in very few copies and only one of these copies was sent to Goering.

Q. And Goering read it at that meeting which you attended in September 1936? Is that correct?

A. That's what I said. I said that Goering read from this memorandum.

JUDGE MAGUIRE, PRESIDING[2]: Just answer the question. The question was whether he read it there, and you can say "yes." You don't have to repeat. We can hear so much more of what

[1] Document NI–4955, Prosecution Exhibit 939, reproduced earlier in this section.

[2] Presiding Judge Christianson was appointed "Presiding Judge" by order of the Military Governor. At the daily sessions of the Tribunal, however, the three judges rotated the actual function of presiding over particular sessions. Hence, for purposes of clarity, the selections from the transcript reproduced herein shall sometimes name Judge Maguire or Judge Powers as "Judge Maguire, Presiding" or "Judge Powers, Presiding."

you have to say, Witness, if you will just answer the questions. We can cover so much more ground.

MR. LYON: Did you talk to anyone else concerning this memorandum other than Goering and the people who were at that meeting?

DEFENDANT KOERNER: I wouldn't be able to say any longer. I don't think I did. It wasn't any business of anybody else's either.

Q. Now, Witness, with respect to the Four Year Plan, I understand you to say that it had both a civilian and a military side to it. You also stated in connection with the Hitler memorandum and your general impressions in 1936 that you had a great fear of the Bolshevist menace. Weren't you concerned, in view of this great fear, about wasting too much time and resources in civilian production?

A. I believe that the language I used was absolutely different, Counsel. I referred to the two spheres, the civilian and military economic tasks, respectively, and I testified in detail about the manner in which these tasks were fulfilled. I would like to obey Judge Maguire's order and not say too much or more than is necessary.

Q. My question is: In view of the civilian activity of the Four Year Plan, that you say existed, weren't you concerned by reason of this great fear of bolshevism that you say you felt in 1936, weren't you afraid that the Four Year Plan was wasting too much time?

JUDGE MAGUIRE, PRESIDING: On what?

MR. LYON: On not strictly military preparations, Your Honor.

JUDGE MAGUIRE, PRESIDING: Oh yes. I didn't get your question complete. Now, you can answer.

DEFENDANT KOERNER: All plans of the Four Year Plan are in existence and I have been able to verify this on the occasion of various interrogations here, and they show clearly what the civilian distribution was in the civilian sphere, as well as in the sphere of the military economy.

MR. LYON: Did you understand my question?

DEFENDANT KOERNER: I think I did.

Q. Now, you said that you had an intense fear of the Bolshevist menace in 1936. Weren't you ever afraid that the strictly military preparations involved with the Four Year Plan were not being stressed sufficiently enough in view of your fear?

A. I believe to be able to say that despite the fact that the danger was excessive, not only for Germany but for many European countries at that time, nevertheless, we didn't carry on war armament but much rather, as I said, we tried to find a basis for

an economy which would withstand the repercussions of a crisis, of course this included considerations of military economy too.

Q. Well, is it fair to conclude from what you just said that all the activities of the Four Year Plan would be useful in case of such a crisis?

A. Of course, it would also be of use in the event of such a crisis, but the original objective of the Four Year Plan was a much deeper one and I testified to it.

Q. Now, Witness, you also stated that you felt certain dangers existed in 1936 by reason of the civil war in Spain and the Popular Front Government in France. Didn't those conditions change materially by 1938?

A. What you say is right, Counsel. The imminent danger represented in 1936 had decreased slightly by 1938 but other dangers had arisen to replace it.

Q. For example, the danger of the attack on Germany by Czechoslovakia? Or of which dangers are you thinking?

A. The danger of the attack on Germany by Czechoslovakia was always existent, particularly pursuant to the Czech-Russian Friendship Treaty.

Q. Now, Witness, you referred to a number of speeches by Goering, including two speeches in 1938, one in July of 1938[1] to the aviation industry, and one in October 1938,[2] which was held in the Reich Aviation Ministry Building. You stated that you attended the October 1938 meeting, and you also stated that although you did not attend the July 1938 meeting the statements made by Goering were substantially the same as the statements you had heard him make or know of his making at various times. For example, there was the statement by Goering to the effect that he was still looking for a bomber which could fly to New York and drop five tons of explosives.[3] Now, you testified, I believe that you didn't take this remark seriously. Is that correct?

A. Yes. I think you're right, Counsel, and that's what I testified to.

Q. Well, now Witness, I'd like to ask you to reconsider that answer, but before asking you to do so, I would like to quote to you briefly testimony by Goering about that same remark in his trial before the International Military Tribunal. He says, and I quote:

"In a speech to the aircraft industrialists I let it be clearly known that I desired most urgently to have a bomber loaded

[1] Document R-140, Prosecution Exhibit 970, reproduced earlier in this section.

[2] Document 1301-PS, Prosecution Exhibit 971, ibid.

[3] Reference is made to Document R-140, Prosecution Exhibit 970, reproduced (in part) earlier in this section which states: "I still am missing entirely the bomber which flies with 5 tons of explosives as far as New York and back."

with the necessary bombs to fly to America and back. I asked them to work on that diligently so that if America should enter the war against Germany I could also reach American armament industry. It was not a question, therefore, of not wanting these bombers. I even, as far as I remember, set up a prize competition for bombers capable of flying at great altitudes and at great speeds over large distances."

Now, in the light of this testimony by Goering, are you still quite sure that you didn't take such remark by Goering seriously?

A. In my testimony I stated that I did not, myself, take part in that conference. I did not belong to the Ministry nor did I belong to the Operations Staff of the Luftwaffe. The declaration that I made here is one which I made on the basis of the transcripts which I assembled myself, and I also told you how it became possible for me to make such a statement because at that conference, production of 4-motor, offensive bombers was curtailed and the so-called standard-Bomber [Einheitsbomber] Junker–88 was stipulated. Therefore that is my opinion and what you have read to me is what was rendered by Goering at the International Military Tribunal.

DR. KOCH: I believe that if the witness is to be submitted a certain challenge, then it must be submitted in its entirety, but not in a form to confuse the witness and not only in part. I consider it necessary that the prosecution give the date of that testimony and when it was made.

JUDGE MAGUIRE, PRESIDING: Does that transcript of testimony refer to the speeches itself to which the witness' attention was drawn to in his case-in-chief?

MR. LYON: Yes, it does, Your Honor. The document number, I believe, is R–140,[1] in document book 118–B. I will get the exhibit reference.

JUDGE MAGUIRE, PRESIDING: Just a moment, Counsel. The only thing we are interested in here was whether Goering's testimony referred to the same speeches? If you check on it you can inform us on that?

MR. LYON: Yes, Your Honor, it did.

JUDGE MAGUIRE, PRESIDING: All right.

MR. LYON: Volume IX of the official transcript of the IMT, page 282.[2]

JUDGE MAGUIRE, PRESIDING: Well, as I understand the witness' testimony, he said that in his understanding of what Goering testified to, that he still did not take the remark seriously at the time he heard the speeches.

[1] Document R–140, Prosecution Exhibit 970, reproduced earlier in this section.
[2] Trial of the Major War Criminals, *op. cit.*, volume IX, page 282.

DEFENDANT KOERNER: Mr. President, I only testified to the fact that I did not take part in that conference.

JUDGE MAGUIRE, PRESIDING: I did not ask you that. I asked you, did you take that remark seriously?

DEFENDANT KOERNER: Your Honor, I did not take it seriously.

MR. LYON: Witness, you refer to what you call strong conflicts between Hitler and Goering which, in the spring of 1938, became evident in the field of foreign policy. You stated that these conflicts were based on Goering's attitude on peace. Can you state this of your own knowledge based on conversations with Goering at that time?

DEFENDANT KOERNER: Of course, at this stage I am unable to reproduce discussions that I had had with Goering in that respect.

Q. The question is, was this statement based on conversations you had with Goering or was it based on something else?

A. No. My statements were based on notifications received by third parties.

Q. Who were these third parties?

A. These were people who often came into close contact with Hitler and heard certain expressions of opinions given by Hitler and they transmitted them in that form to me.

DR. KOCH: I think there is some misunderstanding here, and I suggest that the prosecution repeat that question. It seems to me that the witness is speaking of Hitler, and I thought that the prosecutor spoke about Goering, or perhaps it is I who misunderstood the question.

MR. LYON: Counsel, I am inquiring with respect to statements referred to by the defendant by both Hitler and Goering. He referred to strong conflicts with respect to both parties.

Now, Witness, what were the names of these third parties that talked to you?

DEFENDANT KOERNER: I already told you that these were people who often had occasion to—

JUDGE MAGUIRE, PRESIDING: The question is whether you do know their names or you do not know their names. If you know them, tell us. If you don't remember, tell us that, then we will move on to something else.

DEFENDANT KOERNER: I don't want to tie myself down 100 percent, but as far as I remember, General Bodenschatz made a similar statement about that.

MR. LYON: Did anyone else?

DEFENDANT KOERNER: I cannot recall any other name right now, but I will think it over.

Q. Is General Bodenschatz alive? Did you hear my question?

A. Yes. He is alive.

Q. Where does he live? Where is he located now?

A. I am sorry. I do not know since I don't maintain any contact with him at the moment, but maybe my counsel will verify his whereabouts.

* * * * * * *

Q. Now, what were your own feelings with respect to the occupation of Bohemia? Did you approve of it?

A. Certainly not.

Q. You did not approve of occupying a country by force, is that right?

A. I would like to say that I was absolutely in conformity with Goering's point of view, and that I was of the opinion that that was the right attitude to take.

Q. In other words, that was your point of view?

A. Yes.

Q. You regarded this as an act of aggression and you disapproved of it, is that right?

A. I didn't rack my brains as to the aspects of international law because that wasn't my field. I only formed an opinion about the operation itself.

* * * * * * *

Q. Witness, in connection with your testimony about the Four Year Plan and the efforts to insure the supply of iron, you said that you were concerned about the continuance of the possibility of getting ore from Sweden because you could not foresee the subsequent developments with respect to Norway. Now, when did you first become aware of the possibility of changes in the Norwegian situation?

A. I didn't completely understand the question, that is why it is hard for me to answer it, Counsel.

Q. Well, let me rephrase it. When did you first become aware of German interest in securing influence or possession of Norway?

A. I trust that I remember correctly in saying that once in the summer of 1939 Quisling paid me a visit.

Q. Did he discuss the possibility that Goering might wish to acquire air strips in Norway, that is, flying fields for the Luftwaffe?

A. Quisling didn't discuss that with me because I didn't have jurisdiction in such matters. Quisling paid me a visit of courtesy. As far as I remember, Rosenberg had sent him to me, and I was supposed to arrange for Goering to receive him.

Q. Was this conference also concerned with furnishing support for Quisling?

A. I don't know whether Quisling personally submitted such a request. However, I do remember that on the part of Rosenberg —I think it was through the intermediary of a person by the name of Scheidt*—I don't remember the name exactly but I might be right in saying what I told you—a corresponding request was transmitted to Goering via me.

Q. A request by you for support of Quisling?

A. Some suggestion or other was made on the part of Rosenberg as to the manner in which Quisling might possibly be given assistance. And in order to bring this about this suggestion was brought to my attention for the purpose of my transmitting it to Goering.

Q. What forms of assistance or support were discussed?

A. Of course today I wouldn't be able to recollect the details any longer. As far as I remember, the whole thing didn't materialize in any way. Goering stated at the time that he didn't have jurisdiction in the matter, and he ordered me to tell Rosenberg that he was to approach other parties, because he was out of the question for that type of thing.

Q. Did you know of any discussions between Quisling and Goering with respect to the use of Norwegian air bases by the Luftwaffe?

A. No. Such discussions never came to my knowledge. As I already stated before, I didn't have jurisdiction in this.

Q. Now you say this first conference with Quisling was in the summer of 1939. Did you not subsequently, around September 1939, take steps to see that money was made available to Quisling?

A. No. I already told you that by order of Goering I was to tell Rosenberg that Goering didn't have anything to do with the matter. However in connection with the suggestion that he made, Rosenberg's man was referred by me elsewhere, i.e., to the agency that possibly might be considered for rendering such support; and as far as I remember the agency concerned was the Reich Ministry for Propaganda.

Q. Was this matter of dealings with Quisling an example of the current business of the Four Year Plan?

A. No. I really think that you couldn't possibly call that "current business of the Four Year Plan." It was a mere accident that Rosenberg sent his man and Quisling to me, that Quisling might possibly be received once by Goering. It had nothing to do with the Four Year Plan.

Q. Rosenberg's position at that time was in the Party, is that

* Witness is apparently referring to Amtsleiter Scheidt, a section chief in the Foreign Political Office of the Nazi Party, headed by Rosenberg.

right? He was head of the Party Office for Foreign Matters,* is that correct?

A. Quite correct.

Q. Now, did you consider the plants of the Hermann Goering Works to be important for German war economy?

A. Of course, not only for war economy but from the purely military economy point of view I considered them to be of extraordinary importance.

Q. Did you consider the plants at Linz in Austria in this light, that is, of considerable importance?

A. In order not to permit any doubts to arise in this connection, I want to say the reason which led to the creation of the Hermann Goering Works lay in the field of peace economy but any strengthening of peace economy simultaneously strengthens military economy and in the event of an actual outbreak of war then a strong military economy is very useful in favor of peace economy. That is the way you have to look at these things at all times.

* * * * * * *

Q. Now, Witness, with respect to your position in the Four Year Plan, we had a lot of testimony. I would just like to see if I could provide a fair summary. Would it be a fair summary of your position to say that you were chief of the office of the Four Year Plan and in charge of the management and supervision of that office?

A. Yes, with the management and supervision of the agency. That was entrusted to my care, yes.

Q. Very well. Now, were the Plenipotentiaries General under the Four Year Plan subject to your jurisdiction as well as Goering's?

A. No. They were only subordinated directly to Goering.

Q. Now, is it not true that an order was issued in July 1938 by Goering, stating that the General Plenipotentiaries are "acting under my immediate orders or under those of my permanent deputy and they are therefore in their field not subject to any instructions from other authorities"?

A. I don't remember the order in the manner and text read by you. I'd like to see it myself, if you please.

Q. Very well. I will provide it for you.

(Document handed to witness.)

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* Aussenpolitisches Amt der NSDAP, often abbreviated as the "APA", and usually translated "Foreign Political Office of the Nazi Party."

MR. LYON: Your Honors, I would like to offer this document as Prosecution Exhibit 3768. This document, I might say, bears the number EC–278.*

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REDIRECT EXAMINATION

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DR. KOCH: Yesterday there was mention of the fact that Hitler's memorandum was brought to your attention and that of other people, by Goering. Did Goering read out the memorandum, or did he read only excerpts from it?

DEFENDANT KOERNER: He read excerpts.

Q. Not the whole document?

A. Not as far as I remember.

Q. Counsel for the prosecution asked you whether you did not have to disapprove of the aims of the Four Year Plan, insofar as they concerned peace economy, because you believed there was serious threat from Russia. May I ask for your comment on that?

A. I do not know why I should have disapproved, because just this very threat would, more than anything, have made necessary the strengthening of our internal position.

* * * * * * *

Q. I now pass to a document the prosecution submitted to you. Do you still have it before you? It is dated 16 July 1938, that letter concerning the Plenipotentiaries General and the subordination.

A. Yes.

Q. When you read this letter at that time, did you think it meant that you had now become the general superior officer of the Plenipotentiaries General?

PRESIDING JUDGE CHRISTIANSON: Just a moment. Before you answer that you are now discussing Document EC–278, Prosecution Exhibit 3768?

DR. KOCH: Yes, Your Honor, that is correct.

PRESIDING JUDGE CHRISTIANSON: Thank you. Go ahead.

DR. KOCH: Mr. Koerner, I wanted to ask you whether, when you read this letter, you understood it to mean that, contrary to the old state of affairs, you had suddenly become superior officer of the Plenipotentiaries General?

DEFENDANT KOERNER: In life actions are always what count. I, at least in my actions, continued in exactly the same way as I had up to that day.

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* Reproduced earlier in this section.

Q. Mr. Koerner, a direct answer is always preferable. You were trying to prove what you thought by what you did. I would like to know what you thought. Did you assume now you were the superior of all Plenipotentiaries General?

A. Well, I am sure I didn't think that because otherwise I would be able to remember this letter. Nothing in it can have changed in my opinion.

Q. Very well. If I understand correctly, you considered—according to what you think today—you thought that letter so unimportant at the time that you don't remember it?

A. Well, that is going rather far; it wasn't as unimportant as all that.

Q. It was certainly not unimportant because the Plenipotentiaries General were appointed. According to your opinion today, was your position as superior of the Plenipotentiaries General of any importance?

A. No. Not in that way.

Q. Now I come back to the practical aspects. After this letter, did you ever in any way give orders to any Plenipotentiaries General?

A. If I did so it was always in the old form of instructions from Goering.

Q. No instruction of your own?

A. I hardly think so.

* * * * * * *

RECROSS-EXAMINATION

MR. LYON: Witness, you spoke again about the Hitler memorandum, and you stated that Goering only read excerpts, as you recall it. Now, didn't Goering give you the memorandum to read yourself?

DEFENDANT KOERNER: Yes. I read all of it.

Q. Very well, that answers that question.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHWERIN VON KROSIGK*

JUDGE MAGUIRE, PRESIDING: Counsel, before you start your examination I would like to call the witness' attention to this: Undoubtedly he is interested in having the Tribunal understand

* Complete testimony is recorded in mimeographed transcript, 23, 24, 27, and 30 September 1948; 1 October 1948; pages 22695–22704; 22866–22950; 23042–23143; 23267–23365; 23538–23635; 23815–23933; 24102–24123. Further extracts from the testimony of the defendant Schwerin von Krosigk are reproduced below in section VI E, and in volume XIII, sections IX B 3 and X G.

clearly what his position was and what acts he did or did not do. The Tribunal wants to know those things. That we may create a judgment impartially and justly we must have a clear picture of the facts. It does not help and it is a great difficulty in order to get those facts, if we have too much. It is much better to be concise and direct than it is to be elaborate. It's more to the advantage of a witness that he be concise than if he goes to the other extreme. We want to hear what you have to say; we want to know what your position is, and you will help us if you will be concise.

DR. FRITSCH (counsel for defendant Schwerin von Krosigk): I hope, Your Honor, that I have prepared my case in accordance with those views.

DIRECT EXAMINATION

DR. FRITSCH: First of all, please give your full name for the record.

DEFENDANT SCHWERIN VON KROSIGK: Lutz Count Schwerin von Krosigk, born 22 August 1887, in Rattmannsdorf in Anhalt.

Q. For the record, please give us a short survey of your career.

A. I was the youngest of nine children. My father was an estate owner. My place of birth, Rattmannsdorf, was old family property which has been continuously in our family ever since the first half of the 16th century. In addition, my father had a public career. For many years he was president of the Anhalt Landtag or Provincial Parliament and also president of the Provincial Synod of the representatives of the Anhalt church.

Q. Just to clear up the record, one question. Your name originally was von Krosigk, was it not?

A. Yes, that's correct. In 1925 I was adopted by the childless brother of my mother. He was a Count Schwerin. From that time I have used the double name.

Q. Now please describe your career briefly. I would be grateful if you would emphasize those factors which are essential to your later career.

A. In political respect my father was a moderate with a very strongly developed social tendency. This was due especially to the influence of my mother who all her life had considered it to be her main task to help people who were sick or in need. As especially characteristic I would also like to emphasize the very positive Christian attitude in my parents. I myself was first educated privately at home and in 1901, after being confirmed, I went to the monastery school Rosleben. This was a humanistisches Gymnasium* which, after the Reformation, had grown out of

* One of the three types of German High Schools, providing classical education and requiring major study in the Latin and Greek languages.

an old monastery. The education there, the combination of classical and of Protestant sentiments determined my life. In 1905 I passed the Abitur, the graduation examination, and then went to Lausanne for one term to study and in the fall of 1905 I went to Oxford.

Q. You had a Cecil Rhodes scholarship to Oxford, didn't you?

A. Yes. On the basis of my examination, my school on my behalf applied to the Ministry of Education in Berlin for such a scholarship. Every year the Ministry of Education was to make suggestions to the Emperor for the award of such a scholarship. For the rest my school applied for this scholarship on my behalf without the previous knowledge of myself or of my family.

* * * * * * *

Q. Now, Count Schwerin, when you returned from England, which made such a lasting impression on you as you say, what happened next?

A. I continued my studies at the University of Halle and there in 1909 I took my Referendar Examination.[1] I became government referendar with the government of Stettin, and I passed my second State examination as Government Assessor[2] in 1914, shortly before the outbreak of war.

Q. I would like to interpolate a question here. Did you join any political party?

A. No.

Q. Well, we will come back to your political career later. First of all please tell us what course your life then took.

A. From 1914 to the end of 1918 I took part in the World War. Last of all I was a first lieutenant of the reserve. I was wounded once and in the winter of 1918, after the end of the war, I came back to face the changed conditions of Germany. My office transferred me temporarily to Upper Silesia. In the spring of 1920 I was called to the Reich Ministry of Finance as an assistant.

Q. Let's clear this up right away. Until when did you stay in the Ministry of Finance?

A. I remained permanently in the Ministry of Finance and rose in the ranks from Government Assessor to Minister, passing through all the ranks on the way.

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Q. We shall now turn to the individual counts in the indictment, and on this occasion we shall also have to discuss the prosecution exhibits dealing with these various counts. We come now first

[1] First examination for appointment in government career service.

[2] Regierungsassessor, a person who has successfully completed a probationary period in the government service and passed the Assessor Examination (second examination for appointment in the German Government career service).

to aggressive war. If I summarize the prosecution's contentions to this count, the prosecution contends that, as Reich Minister of Finance, you made funds available and thus participated in some way in aggressive war in the sense of Control Council Law No. 10. First, a general question.

Did Hitler or Goering or any other of the decisive men—and if so, when—speak with you about a war against any other country?

A. Never.

Q. Now, it might readily be assumed that Hitler, when he drew up his plans of aggression, as it is here asserted, got in touch with you regarding the financing of such wars. That might have been directly or indirectly and circuitously. What could you say about that?

A. Neither directly nor indirectly did he do so. At no time did I belong to that circle of people who were consulted for discussing Hitler's military plans or his plans affecting foreign policy.

Q. Let us turn to the Wehrmacht. There can be no doubt that rearmament was carried on in Germany and that naturally funds were paid for this through the Reich Ministry of Finance. Can you first make some general remarks on that subject?

A. Yes. In the financing of rearmament I participated from complete inner conviction that an unarmed state on a continent which was completely armed was a threat to peace, a vacuum always drawing things into it.

Q. Do we understand each other to the effect that rearmament as such is not a crime in any sense? The IMT corroborated that. The question at hand is merely the following: Did you deliberately participate in this rearmament for the purpose of Germany's waging an aggressive war? Please answer that question.

A. I should like to state here, in all clarity, that at no time and from no definite source did I hear war presented as the objective of our rearmament. On the contrary, the objective was always presented as that of rearmament for the sake of protecting Germany against attacks, particularly from her eastern neighbors; and I myself never had any other objective in mind.

Q. In view of the contentions of the prosecution, however, we must discuss your participation in rearmament in detail. We have already discussed the fact that as Reich Minister of Finance you had to draw up the budget. One such budget was, of course, that of the Reich War Ministry. Was your part in this budget exactly the same as your participation in budgets for other ministries, or were there particularities in this case?

A. There were certain particularities which originated from the period of Reich Chancellor Bruening because rearmament,

over and beyond the limits allowed to Germany by the Treaty of Versailles, began early. The former Chancellor Wirth has given interesting testimony on this subject. Let me refer to Koerner Document Book 1–A, [Koerner] Document 303, page 50.

Q. Let me just add that this is Koerner Exhibit No. 17.[1] Please continue.

A. Under Bruening this was reduced to a certain system. There was a so-called "Black Reichswehr Budget," this being derived from excesses in the right budget—in other words, the legitimate budget. This black budget was established by a committee appointed by the Reich Cabinet, in which the Reich War Ministry, the Reich Ministry of Finance, and the Rechnungshof of the German Reich took part. The chairman of this committee was the State Secretary in the Reich Ministry of Finance; that was, first of all, Dr. Schaeffer, and later Dr. Zarden.

Q. I might refer, in this connection, to the affidavit of the aforementioned State Secretary Dr. Schaeffer, Volume II, Schwerin von Krosigk Document 325, page 102, Schwerin von Krosigk Defense Exhibit 185.[2] Dr. Schaeffer has lived in Sweden since 1932 and he declares that he was the manager of this black budget. Did your predecessor, Dr. Dietrich, the certainly democratic Finance Minister, know of these matters also?

A. But of course. The committee acted completely on orders from the Cabinet. Insofar as I know the parties in the Reichstag were also regularly informed by their ministers in the Cabinet. Initially, immediately after 1933 this scheme of having a black budget was continued; that was changed only—and now I come to the second peculiarity—when a Cabinet decision, in April 1934, was concluded to the effect that Reichswehr should receive a special budget from the Reich Ministry of Finance—a special position *vis-a-vis* the Reich Minister of Finance.

Q. Will you please describe that briefly?

A. On application by Minister von Blomberg it was decided by the Cabinet that the Reichswehr need not submit any application for a budget which was broken down in any way to the Ministry of Finance, but that the Reich Minister of War simply had to ask the Minister of Finance for a round sum.

Q. Did you accept this new regulation without any further question?

A. No. At that time in the Cabinet I sharply opposed this new regulation, giving my reasons. However, Mr. Schacht was the only man who supported me in the Cabinet. The other members of the Cabinet, in particular, of course, the Reich Chancellor

[1] Reproduced earlier in this section.
[2] Ibid.

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himself, adhered to the views of the Reich Minister of War that military rearmament was not compatible with the budgetary power of the Reich Minister of Finance but would be hindered by it. At any rate, Minister von Blomberg declared most emphatically that he would take over the responsibility for rearmament only if he received that special position *vis-a-vis* the Minister of Finance that he would apply for.

Q. Mr. President, so that these matters need not be gone into at length here, I have set them forth at great length in an affidavit, and likewise in the examination of the witnesses, Reinhardt and Mayer. Let me refer to the Reinhardt examination, to be found in the English Transcript, at page 20185;[1] and the Mayer examination is on English page 16717. Furthermore, I refer to Mayer's examination on page 16720.[2] Both these examinations took place before Commissioner Crawford. I refer likewise to the affidavit put in evidence by me, an affidavit of Bender, in supplementary book 2 [Schwerin von Krosigk] Document 322, page 73, Exhibit 182; and the Brahtz affidavit, book 3, [Schwerin von Krosigk] Document 92, page 8, Exhibit No. 88.[3]

Now, I believe we must go into the question whether there were budget negotiations and how up until the moment the sum was paid what course matters took?

A. Budget negotiations in the usual sense of the word did not take place. Before the beginning of the fiscal year Minister von Blomberg and later Keitel negotiated with me and the President of the Reich Bank, that is to say with Schacht, until January 1939 and from then on until the outbreak of the war with Funk. The amount of the round sum to be approved for the following year was negotiated on. Regarding the size of this amount there was regularly a struggle lasting for hours which usually ended with a compromise. It was important to Schacht and me to reach some agreement with the gentlemen from the Army because if we did not reach an agreement and Hitler was called upon to make the decision, he assuredly would express himself in favor of the sum originally demanded and might even ask for an even larger one.

Q. This sum that von Blomberg, the Reich War Minister, asked for, what could you find out in contemplating it? Was it broken down in any way or just what were the details of this?

A. From the sums themselves, we could detect nothing. Blomberg and Keitel in explaining their positions made oral statements

[1] Fritz Reinhardt's complete testimony is recorded in the mimeographed transcript, 7 and 8 September 1948, pages 20163–20210; 20312–20391. Extracts from the testimony of Reinhardt are reproduced later in this section.

[2] Josef Mayer's complete testimony is recorded in the mimeographed transcript, 18 and 19 August 1948, pages 16703–16798; 17010–17040.

[3] Neither of these affidavits is reproduced herein.

to us regarding the over-all objectives of the rearmament, something to the effect that 36 divisions were to be equipped, but the number of tanks or planes or such that were on hand we never found out. Even later we could not detect that number from the calculations sent in.

Q. Couldn't you have found out these numbers if you had asked, or did you ask?

A. We did ask but we received no detailed information.

* * * * * * *

DR. FRITSCH: Count Schwerin, if I understand the prosecution's intentions correctly, it is contending that a war inevitably had to follow. Among other reasons, this reason: After the conclusion of the rearmament unemployment would again threaten, a problem which Hitler had to solve. Did these notions actually play a role? Was that actually the case?

A. No. The contrary is true. Everyone who was responsible for finances or for economic policy felt that the danger of too rapid tempo existed and wished a slower tempo, that is, less expenditures on armament. Only this brought about certain economic tensions which would have disappeared at the moment when we found a transition from rearmament to normal economic life. There was such a great need for this that full employment was provided for a long period of time according to my personal conviction.

Q. Let me refer again at this point to the transcript of proceedings before Commissioner Crawford, the examination of the former State Secretary Reinhardt, English page 20194; likewise the affidavit of Widtmann, in book 2, [Schwerin von Krosigk] Document 59, page 82 in the German, Exhibit 61.

Now, Witness, if we follow this thought through that we broached before, did not the extent of rearmament lead, if not to war, at least to economic ruin?

A. No. No more one than the other. Of course, the financial difficulties were great, but they were perfectly solvable. When war broke out, Germany had 35 billions in debts. In addition, there were 12 billions in the Mefo bills of exchange, with the annual national income of 100 billions. The debts were not even 50 percent of the national income. With the exception of the United States, there were few major powers in such a favorable financial condition. The single danger could subside only in the Mefo bills of exchange, namely, if these were to return to the Reich Bank suddenly and if they, therefore, had an inflationary effect. However, it was by no means a difficult problem after the conclusion of the rearmament to do away with the debts by the Mefo bills of exchange system, partly by consolidation, that is,

transferring them to long term debts, and partly by continual amortization through the budget. This amortization had begun already in the year 1939.

Q. From the point of view of the Reich Minister of Finance, you would have been happy, aside from other questions, if rearmament were concluded because then the money flowing into the army could have been expended for other purposes without creating any complications, is that correct?

A. Yes. That is completely correct. On this occasion let me point out that at the end of 1938 my State Secretary Reinhardt had been ordered to appear before Hitler for some reason or other and was expressly requested by me to draw Hitler's attention to the fact that the special position occupied by the Wehrmacht should be done away with as soon as possible. That was to me synonymous with the conclusion of rearmament. I have not pointed this out so far explicitly but should like to do so now, namely, that I availed myself of every opportunity to protest the special position occupied by the Wehrmacht and protested this to Hitler and the members of the OKW. In this conversation between Hitler and Reinhardt, Hitler told State Secretary Reinhardt more or less the following: "Tell your Minister that he need not concern himself any more about the rearmament. In about one year we shall be so far that peace is assured and that we need not rearm any further." And Hitler concluded: "Then the Wehrmacht will have to account for every nail it uses and its special position will be done away with." This statement Reinhardt reported to me; although I was not particularly happy that this special position was still to last for another year I was, nevertheless, able to foresee the end of this state of affairs.

(Recess)

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Q. Today we have to clarify a question which was broached Friday afternoon by Judge Maguire, namely, the question of the relationship between the Wehrmacht budget and the total budget. Will you please say what you have to say about that?

A. Of course I have only the figures for the total Reich budget available and I have been able to ascertain from them the following. If you leave out of consideration the Mefo exchange, then the amount expended for the Army from 1934 to 1939 amounts to 45 percent of the total expenditures in the budget. In the main years of rearmament, namely, 1936 to 1939, the sum expended for the Army amounted to 48 percent of the total budget. If you include the Mefo drafts, which to be sure lay outside the budget, then the expenditures for armaments in-

cluding the Mefo draft amount to 56 percent of the total budget. Of course in order to have a complete picture you should include the budgets for the various districts, the provinces, Laender, and so forth because these budgets also contain provisions for the entire administration for schools or general government expenses and in the first years after 1933 expenditure for police and judiciary, which expenditures were later transferred to the Reich budget. Unfortunately, however, I do not have these statistics available. Consequently I can only draw a comparison between army expenditures and the Reich budget *per se*.

Q. Can you give an estimate on the basis of your experience?

A. You mean including these other expenditures?

Q. Yes.

A. That is very difficult. I hesitate to make an estimate for which I cannot take full responsibility. I would assume that the amount might then sink to 35 or 40 percent, but it might even be lower. I don't want to estimate it too low because, as I say, I can't do this at all without data before me.

JUDGE MAGUIRE, PRESIDING: In that respect, Witness, were funds for education and local expenses of the Laender and municipalities raised by local taxation or were they all raised by Reich taxation?

DEFENDANT SCHWERIN VON KROSIGK: The Laender had specific taxes which the Laender themselves were obliged to collect—namely, real estate taxes and industrial taxes. In addition they received a part of the total Reich tax which was transferred to them annually from the Reich income tax and turnover tax. The Laender, in turn, transferred a part of the funds that they received from the Reich to the communities as their own taxes were not sufficient. Those were small taxes, amusement taxes, liquor taxes, taxes on dogs, and so on.

Q. But both the municipal taxes, and the Laender taxes, were retained by those various bodies and not reported in or paid into the Reich treasury?

A. They were administered by the municipalities themselves and retained by them. They did not go to the Reich Treasury.

Q. Thank you very much.

DR. FRITSCH: Count Schwerin, we had been interrupted in our examination while discussing the question of aggressive war and we are dealing with a subject which I might sum up briefly. In quite a different context you had heard State Secretary Reinhardt, as on other occasions and here also, attempt to have it brought about that the army be under regular budgetary provisions or investigate that matter. Reinhardt reported to you that Hitler had said roughly the following: "After one year we shall

have guaranteed peace. The army would then have to account for every nail it used and the army expenses would fall under the budget again." My question is, this statement of Hitler's brought to you by Reinhardt—did you believe it or did you have doubts about it?

DEFENDANT SCHWERIN VON KROSIGK: I had no doubts about it. I had no reason to assume that Hitler would lie to Reinhardt, a close friend of his and an old Party member. You must not look at these matters with a retrospective diagnosis but from the point of view of those days. Secondly, I really did not assume that Hitler intended anything else with his rearmament program than what he again and again said in public and what the gentlemen in the OKW always gave us as their sole reason, namely, to bring Germany into a position to defend itself against possible attack, particularly attack from the East.

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Q. Let's now take up matters which we have previously adumbrated. Didn't you become distrustful at least when certain things happened? I am referring now to Austria, Sudetenland, Czechoslovakia. Perhaps you might discuss Austria very briefly. The prosecution has presented matters here as if this was an attack on a poor defenseless little country.

A. The Austrian chapter has been dealt with in detail here. I wish to make statements regarding it only so far as I am personally involved. The events leading up to the incorporation of Austria, I did not participate in at all. I knew no more than any other citizen knew through the press and radio. What took place when Schuschnigg visited Berchtesgaden and in Vienna before our entry, I did not know. I did experience one thing, however. That was the obvious and unlimited joy on the part of the Austrian population. I saw that myself when after the Anschluss was a *fait accompli* I went to Austria for the first time.

At that time I also heard the statements or read the statements of the leaders of the Evangelical and Catholic Churches in Austria which welcomed the Anschluss. Consequently I could not doubt that this union corresponded to the wish and will of the vast majority of the population of both countries. It did not even occur to me to construe the so-called Anschluss as an act of force, rather I regarded the entry of our troops, which were greeted not with guns but with flowers, in the same way as I regarded the entry of German troops in 1935 into the Rhineland. But I might refer to one experience here that I had on my first visit and which struck me greatly at the time. At that time I visited the financial departments of the various Austrian Laender, and on these occasions I did not only speak with the presidents,

who were old Austrian civil servants, but I also spoke to the new Gauleiter in these provinces. I was told unanimously by both National Socialists and by non-Party members that since time immemorial people in Austria had always felt themselves to be Tyrolians, Carinthians, Styrians, and as Germans but never as Austrians. The concept of Austria was an invention of the last government in Austria. And the second thing which I heard was that they all unanimously asked me to do everything in my power so that the country of Austria as such should disappear. The individual small Austrian provinces like Tyrol, Carinthia, and so forth, wanted no more to deal with Vienna but wanted to deal directly with Berlin. They said this by saying that the Austrian Alpine provinces had always been ill-treated by Vienna, even in the old imperial days and likewise in the Dollfuss and Schuschnigg days, and even now in the pre-National Socialist period things didn't seem to have changed much. They were always treated in the Viennese ministries as the unpleasant and the wild men from the mountains who were to be put off with a few words. But they couldn't get money out of Vienna.

They knew on the other hand that there had been for many, many years a financial adjustment between the Reich and the Laender in Prussia, a financial adjustment between the poor and the rich provinces. That meant, for example, that in East Prussia streets and schools were built with funds deriving from the taxes levied in Berlin and Frankfurt. The Austrians said that system was the only just one. "We want that here, too." And that is the reason they wanted to be immediately subordinate to Berlin.

Q. Were funds demanded of you previous to the entry for the purpose of entry?

A. No. In no way.

* * * * * * *

Q. What was your official contact now with the occupation of the Sudetenland? We have Prosecution Exhibit 93 in this connection, volume [document book] 70–B, page 72, Document 388–PS.* This document deals with the preparations for the Green Case. Were the two final orders sent to the Ministry of Finance?

A. Let me say in this regard that all these expressions like the Green Case, the Barbarossa Case, the Marita Case, and so forth came to my knowledge only in the course of this trial.

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* This document is reproduced in part later in section VI D (Czechoslovakia). It is an order of Keitel, Chief of the High Command of the Armed Forces, dated 28 September 1938, concerning the mobilization of the Frontier Guard on the Czechoslovakian frontier and the subordination of the Henlein Free Corps to the German Armed Forces. The defendant Schwerin von Krosigk received a copy of this Keitel order.

I never heard of any of them before. In the case of the Sudetenland, likewise, I knew of no military preparations. It is true that my Ministry received the OKW orders of 28 and 30 September but the Munich Pact had been concluded in the meantime and the Munich agreement permitted the entry into the Sudetenland. The orders regarding this entry reached us only after Munich. Concerning all other documents which are to be found in other document books and are in some way connected with this document, I know nothing.

Q. Let me draw your attention to the receipt stamp on Document 388–PS, which shows that the document was received on 3 October at the adjutant's office of the Fuehrer and Reich Chancellor. Now, I should like to put another prosecution exhibit to you, Prosecution Exhibit 1165, that is Document EC–419,* in document book 70–B, English page 67. This is a letter you wrote Hitler, dated 1 September 1938.

[At this point a discussion of questions of procedure and a recess took place. No testimony has been omitted at this point.]

Q. (Continuing): Count Schwerin, we were last discussing prosecution document book 70–B, and I will have it sent up to you. We are now speaking of the same Exhibit 1165, which is the letter you sent to Hitler, on page 67 of the English and 206 of the German.

Would you be good enough to comment briefly on the question as to why you wrote at the time this letter which is under consideration, and why you wrote it at all?

A. At that time it couldn't remain secret to anyone that there was danger of war breaking out. This danger had arisen, not as a result of the dimensions under which armaments proceeded in which I took part myself, but this danger had come as a result of Hitler's foreign policy; and I exercised no influence over that. At that time I had determined to undertake something against this danger of war which was menacing us. Thus I sought to find ways and means to issue a memorandum on financial issues in which I would also discuss political issues. I found such a way by means of the loss of confidence which prevented the floating of loans, the reason for which was to be found in the general fear of war which prevailed. I urgently warned Hitler of war. I don't think I could have been more emphatic in submitting to him the argument that the German people would lose their confidence in him, Hitler, in the event of war breaking out.

Q. Therefore, in this memorandum that you mentioned to us you say that "time is working in our favor; and therefore, the Reich policy has to wait." Was that your real conviction and

* Reproduced earlier in this section.

your real opinion at the time, the one that you were trying to convey to Hitler?

A. Yes. That was my opinion. However, I chose suitable arguments which were capable of making an impression upon Hitler. Time was in our favor from my own point of view. If the level of armament which Germany had reached would safeguard Germany from any attack from abroad, in that event we wouldn't have to be afraid of any attack upon Germany on the part of any other powers; and if the rearmament of other nations—and I am speaking now particularly of Britain's program, which had been launched in answer to Germany's own rearmament—were to proceed further, in that event it would be impossible for Germany to wage any war against its allied neighbors. Therefore, it was my firm conviction that time was working against the outbreak of a war and in view of that I tried to submit to Hitler that Germany's peace strength would permit it to attain many objectives which a weak Germany had tried in vain to achieve. I was driven to choose certain arguments which, seen from the point of view of Hitler, would speak in favor of the argument that time was working for us.

Q. Is that how the last sentence of your memorandum is to be understood?

A. Yes. After all, I wasn't writing to an association of young girls. I had to bear in mind that if I was going to make an impression upon Hitler I had to use the language that he would be able to understand. Further, I was also of the opinion that in the course of time Czechoslovakia, of its own accord, would come to be an ally of Germany, perhaps by means of a treaty to be signed in mutual defense.

* * * * * * *

Q. But now in March of 1939 entry into Prague took place. What did you hear of that before it took place, and did you agree with the form in which it took place, that is, the form in which Hitler undertook to solve the Czech problem in accordance with the ideas that he had concerning it?

A. In this instance, too, the departmental Ministers [Fachminister] were only subsequently informed by press and radio releases of what had taken place. As far as the pressure is concerned which was exerted on Hacha, it was only years later that I came to hear of it. But at that time under consideration I was of the opinion that Hacha had sought to find contact with Germany and had found of his own accord means of establishing such contact. But still, in any case, I thought that Hitler had made a mistake in regard to the proceeding because thus he had

left the limitations of his own claims, that is, the incorporation of all German areas. He had left the framework of his own claims and he had broken the assurance that he had given to Mr. Chamberlain. It was clear that now what Britain had said—that is, up to here and no further—would put an end to Hitler's policy which was to face the world with *fait accompli.* Now, I saw a possible danger arising only in the following. I knew of von Ribbentrop that he always assumed that any British assurance was a bluff and I was afraid that von Ribbentrop would corroborate Hitler's same point of view and that some new move would be undertaken to pursue further the policy facing the world with *fait accompli,* as a result of which the danger of war would again arise.*

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CROSS-EXAMINATION

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MR. HARDY: Now, when the rearmament program started in the Third Reich and continued through the period of years, you were aware, were you not, that the rearmament was far and beyond the limits allowed to Germany by the Treaty of Versailles?

DEFENDANT SCHWERIN VON KROSIGK: Yes, of course.

* * * * * * *

Q. Now, Herr Minister, the law which governed relationships between the Reich Treasury and the Reich Bank was the law of 30 August 1924, is that right?

A. The Reich Bank Law, you mean?

Q. Yes.

A. Yes.

Q. Now, under this law the Reich Bank was authorized to lend to the Reich amounts not in excess of 100 million reichsmarks, isn't that right?

A. Yes.

Q. And that was for a period not in excess of 3 months, is that right?

A. Yes.

Q. And at the close of each fiscal year the Reich had to be clear of obligations to the Reich Bank, isn't that right?

A. Correct.

Q. Now then, for rearmament purposes the Reich Bank was practically useless, was it not?

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* The ensuing direct examination of the defendant Schwerin von Krosigk concerned British assurances, particularly with respect to Poland. This testimony is reproduced later in section VI E.

A. You say "useless"? Yes, with the restriction that this involved direct credits to the Reich.

Q. I see. Now, therefore, you had to obtain a device to go beyond the law, and was that not the purpose of the Mefo bill?

A. The purpose of these Mefo bills was, of course, to undertake a financing measure outside the limitations of the budget in the same manner as had previously been the purpose of labor procurement to undertake financing in that field, which otherwise could not have been undertaken within the limits of the budget.

Q. Well, Mefo was also the answer since the Reich Bank could not lend directly to the Reich, isn't that correct, under the law? You will concede that, or won't you?

A. In this instance, ways and means had to be found which would enable the Reich Bank to observe the provisions of the law and yet sponsor or cosponsor measures like labor procurement and rearmament.

Q. I see. Now, Mefo, then, was a private company which was created for that purpose. And what was the full name of Mefo?

A. Metallurgische Forschungsgesellschaft [Metallurgic Research Institute].

Q. Then, as a result of that, the Reich Bank lent money to Mefo, isn't that right?

A. This system of Mefo Bills has already been dealt with at great length here, and I must assume that the facts are known.

Q. All right. Then the Reich Bank lent money to Mefo, isn't that right?

A. This system of Mefo bills has already been dealt with at great length here, and I must assume that the facts are known.

Q. All right. Then the Reich Bank lent money to Mefo, isn't that right?

(The witness nodded)

Q. (Continued) Now, the armament—

JUDGE MAGUIRE, PRESIDING: Now just a minute; do you want an answer to your question?

MR. HARDY: He answered it.

JUDGE MAGUIRE, PRESIDING: We haven't had any answer yet.

MR. HARDY: The Reich Bank lent money to Mefo? That is the question.

DEFENDANT SCHWERIN VON KROSIGK: Yes. But you are rather simplifying matters in your statement.

Q. Well, we will go on. Now, the armament suppliers drew, for their deliveries, drafts on Mefo, isn't that right?

A. I don't understand.

Q. The armament suppliers—

A. Yes.

Q. —drew, for their deliveries, drafts on Mefo. Is that not correct?

A. Yes.

Q. And Mefo then accepted the drafts, is that correct?

A. Yes.

Q. Now, the armament suppliers then gave them to their own banks, which endorsed and sold them to the Reich Bank, is that correct?

A. Yes. They could, if they wished, pass them on, they didn't always pass them on in actual practice.

Q. Well, then, the Reich Bank could take them without ado because they had three signatures of these private firms on them, did they not?

A. Yes.

Q. And these Mefo drafts ran for a period of 5 years, is that correct?

A. Yes.

Q. Now, it is apparent, is it not, that the system would have been no good unless the Reich stood behind it in some way, since the Reich Bank was getting nothing for its funds?

A. I am afraid I didn't quite get that, Counsel.

Q. I will repeat. It is apparent, is it not, that the system would have been no good unless the Reich stood behind these Mefo bills, since the Reich Bank was getting nothing for its funds?

A. I only got the first portion of your question and not the second justification or opinion that you expressed. Perhaps you will be good enought to repeat in English.

Q. All right, I will get it to you in another manner. The Reich Bank, knowing that Mefo was a commercial enterprise established *ad hoc,* and without any means of its own, demanded a strict guaranty from the Reich to the effect that it would honor the drafts at maturity; is that correct?

A. It is correct to say that the Reich Bank claimed a Reich guaranty because unless such a Reich guaranty was in existence, as you very correctly said, Counsel, the firms and banks would not have considered these bills as valid.

Q. All right. Now, this guaranty was given by the Reich, wasn't it?

A. Yes.

Q. And by your Ministry of Finance?

A. I believe that the guaranty was based on a cabinet ruling, but it was issued by the Reich Ministry of Finance, yes.

Q. Thank you. And in this way 12 billion reichsmarks were made available for the armament program, isn't that right?

A. Yes.

Q. Now, efforts were made to keep the Mefo system a secret in the Ministry of Finance, is that right?

A. Well, not at our own instigation, that is, we in the Reich Ministry of Finance. I think that we would not have entertained any misgivings in this Mefo system being made publicly known.

Q. Well, it did not appear in the budget, did it?

A. No, of course not, it wasn't possible for it to appear there.

* * * * * * *

Q. Was the Mefo system the heart of the rearmament budget or the rearmament program of the Reich?

A. No. I don't think you can put it that way, Counsel; but, of course, during the first years, when the budgets were not large enough to turn out the necessary funds, it was Mefo which mainly financed rearmament.

Q. Now, who was Ministerial Counsellor Bayrhoffer, B-A-Y-R-H-O-F-F-E-R?

A. Ministerialrat Bayrhoffer worked in my Ministry, and he was responsible for the Referat concerning loans, Reich debentures, and later on, he had a group involving general credit issues, debenture issues, loan issues, and so on. Finally, from 1939 onwards, he simultaneously was also a member of the Reich Bank Directorate.

Q. He was your subordinate, was he not?

A. Yes, of course.

Q. Now, Herr Minister, I wish to show you Document NG-5339, which I mark for identification, Your Honors, as Prosecution Exhibit 3907.*

PRESIDING JUDGE MAGUIRE: It is so marked.

MR. HARDY: I have three copies here for Your Honors.

(Documents submitted to the witness and to the Tribunal.)

MR. HARDY: Now, Witness, this document is dated April 1937. Now this is signed by Bayrhoffer, is it not?

DR. FRITSCH: I would like to have a photostatic copy, please.

MR. HARDY: There is only one, and the witness has it.

That is signed by Bayrhoffer, is it not?

DEFENDANT SCHWERIN VON KROSIGK: Yes.

Q. Now, there are some notes down in the left-hand corner. Do you recognize any of those?

A. Yes. At the left bottom corner there is a "B" which must stand for "BENDER."

Q. Are there any other remarks that you recognize on that instrument?

A. Yes. On the right-hand side there is another one.

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* Reproduced earlier in this section.

Q. Is that Radebach?

A. It might be; it probably is Radebach because here at the top it says "Radebach." He is shown after the "expedient" [sender] and at the bottom this presumably is to stand for his initials.

Q. And now I call your attention to the first paragraph of the letter which refers to the secrecy of Mefo. Does that refresh your recollection that Mefo was to be kept secret?

A. I beg your pardon, Counsel. That fact that Mefo was kept secret was a thing that I never denied. You asked me, Counsel, whether the Finance Ministry was particularly anxious about this secrecy.

Q. I'm asking you the question; I'm not challenging your credibility at the moment. Don't take the defensive so quickly. I'm merely asking you: Does that refresh your recollection that Mefo was to be a matter of secrecy?

A. That doesn't refresh my recollection in any manner whatsoever because I knew it before that; I never denied that.

Q. Now, Witness, on the direct examination you have told us that the total amount spent by Germany for rearmament until the outbreak of the war amounted to 60 billion Reichsmarks, and you said this was equal to about 17 billion dollars. Is that correct?

A. Yes, I said that.

Q. Now, at that time the official rate of exchange was, was it not, 2.5 reichsmarks for 1 dollar?

A. Yes, the official exchange was that.

Q. Then the 60 billion reichsmarks would be equivalent to 24 billion dollars and not 17, isn't that right?

A. That must be correct, yes, but at the moment I can't say for sure whether I said 17 billion dollars. I was answering the question of my counsel and I can't be sure what sum he asked me about. I had the impression at the time that he had calculated the matter correctly though.

Q. Thank you. Now, this amount of 60 billion reichsmarks included the expenditures shown in the budget of the three parts of the Wehrmacht plus the 12 billion reichsmarks Mefo bills; is that right?

A. Yes. That's what I said.

Q. Now, it is also true that the money spent by other ministries for civil armament is not included in that figure of 60 billion; isn't that right?

A. You can't put it that way. I have already testified here that other ministries likewise demanded sums for their aspects of the Reich defense and that I demanded of them that these ministries take these funds either from their current expenses or if they

could not do that, that these expenditures should be taken from Wehrmacht funds and be made available by the Wehrmacht.

Q. Well, now, is it not correct that the amount spent by the Ministry of Food and Agriculture for measures in the field of grain and vegetable economy, for example, those 559 million reichsmarks spent for that purpose in the fiscal year of 1938 and 1939, are not included in the 60 billion reichsmarks.

A. That's correct.

Q. Now, in connection with that 559 million reichsmarks used you told us that 275 million was used for the storing of the grain reserve and that these costs were extremely high as there were no silos available and the grain had to be stored in gymnasiums and so forth. Now, weren't there any silos in Germany at that time at all?

A. Yes. There were silos but there were too few of them. Thus, if you wanted to reduce this sum of 275 million the only way to do so was to build silos.

Q. And in accordance therewith 18 new silos and about 330 storage halls were built, isn't that right?

A. Yes. That was one of the reasons from the financial point of view to reduce the unnecessary storage costs.

Q. Now, you told us that the establishment of the grain reserve of 6.5 million tons amassed in 1938 and in the beginning of 1939 was financed by German banks. Now, is it correct that the grain credits of the banks were guaranteed by the Finance Ministry and amounted to 950 million marks by June 1939?

A. Yes, that's right.

Q. And these guarantees, of course, were not shown in the Reich budget; is that correct?

A. Guarantees never appear in the national budget. They can only be seen from a Reich budget law. In the Reich budget law for 1939 we are empowered to issue those guarantees.

Q. Now, if you add all these expenditures made by civil ministries in the interest directly or indirectly of rearmament plus the amounts financed by banks for the same purpose, isn't it possible that Hitler's conclusion that 90 billion was spent for rearmament was correct?

A. No. I don't believe so. I don't know whether he included the 12 millions for the furthering of sheep breeding. That was an expenditure which was also there in case of the necessity of defense, but it was also there for peacetime use and the same is true of the grain.

* * * * * * *

Q. Now, is it true that the grain reserve amounted to a half a million tons on 30 June 1937 and was then increased to 5.5 million

tons by 30 June 1939 and to about 7 million tons some weeks later?

A. No, not so far as I recall. I don't believe they ever got anywhere more than 6 million.

Q. Now, there was a bumper harvest in 1938 in Germany, isn't that correct?

A. Yes.

Q. And despite the record crop the Reich bought 3 million tons of grain from abroad during that year, is that right?

A. Yes, that's just it, because the grain harvest in the rest of the world was very good too.

Q. Now, you have told us that the cabinet decision of 1934 took away from you the task of establishing the budget of the Wehrmacht. Now, does that mean that you no longer had the right to decide for what individual purposes the money was to be spent?

A. That meant that the Reich Minister of War was no longer obliged to submit to me a budget in all details and was no longer obliged during the fiscal year to get my approval for excesses of the budget in individual entries.

Q. However, it remained your task to come to an understanding with the Minister of War with regard to the total sum to be allotted to the Wehrmacht, isn't that right?

A. Yes.

Q. And you were in charge of making available those total sums?

A. Yes.

Q. Now, in 1938 you became uneasy about this, did you not, and asked Reinhardt when he was ordered to see Hitler to insist that the right of establishing the Wehrmacht budget should be retransferred to you, did you not?

A. I could only answer the second half of that question in the affirmative, not the first, because it was not only in 1938 that I became disquieted. Rather, I conducted this struggle in cabinet meetings from 1934 on, on every possible occasion.

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EXTRACTS FROM THE TESTIMONY OF THE DEFENSE WITNESS FRITZ REINHARDT BEFORE COMMISSION I*

DIRECT EXAMINATION

DR. FRITSCH (counsel for the defendant Schwerin von Krosigk): Witness, first of all please give us your personal data for the record. Your name, your birthdate and your birthplace.

WITNESS REINHARDT: My name is Fritz Reinhardt. I was born on 3 April 1895 in Ilmenau in Thuringia.

Q. At this time you are in the Palace of Justice in Nuernberg in custody?

A. Yes.

Q. Witness, please give us a brief biography especially of your professional career up to 1933.

A. I attended the public school and the trade school in Ilmenau in Thuringia. I studied the commercial course and I was employed in Germany and outside of Germany. At the time when the war broke out in 1914 I was in Riga. From 1914 to 1918 I was interned in Russia. During this time I gave courses in accountancy, in bookkeeping, and other commercial subjects, and I wrote a commercial book for self-instruction. After 1918 I was a teacher of commerce, the principal of a commercial school, a teacher for correspondence courses. I was a publisher, a tax adviser and a writer in bookkeeping, accountancy, commercial law, and economic questions.

Q. Witness, is it correct that at the end you were State Secretary in the Reich Ministry of Finance?

A. I was State Secretary in the Reich Ministry of Finance from 1933 until 1945.

Q. I take it that this has something to do with your political activity and will you therefore tell us how you came to be appointed State Secretary?

A. I was a member of the Nazi Party since 1926. I concerned myself very much with financial, political, taxation, and economic questions. In September 1930 I was elected to the Reichstag. There I was the spokesman for the National Socialist Party in the Budget Committee, in the Accountancy and Taxation subcommittees, and in the National Debt Committee. I was also Deputy Chairman of the Budget Committee of the Reichstag. In April 1933 I was appointed State Secretary in the Reich Ministry of Finance.

Q. Witness, therefore on the basis of your membership in the Party and of your activity for the Party at that time, especially

* Complete testimony is recorded in the mimeographed transcript, 7 and 8 September 1948, pages 20163–20210, 20312–20391.

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for the Party in the Reichstag, you were appointed to the job of State Secretary in the Reich Ministry of Finance?

A. Yes.

Q. Let me interpolate a question here. Were there several State Secretaries in the Reich Ministry of Finance or were you the only one?

A. In the Reich Ministry of Finance I was the only State Secretary. We in the Reich Ministry of Finance for reasons of economy were of the opinion that a Ministry should have only one State Secretary, therefore, we had to set a good example.

Q. The Reich Minister of Finance in the Hitler Cabinet was Count Schwerin von Krosigk; is that right?

A. Yes. Count Schwerin von Krosigk was not Reich Minister of Finance for the first time in the Hitler Cabinet. He already held that post in the two preceding cabinets, von Papen and von Schleicher.

Q. Since when have you known the then Reich Minister of Finance personally?

A. Since 1931. Count Schwerin von Krosigk was a Ministerialdirektor in 1931 and in 1932 he was Reich Minister of Finance and as such he appeared before the Budget Committee of the Reichstag.

Q. Are you in a position here to give us a brief survey of the main fields of the Reich Ministry of Finance from 1933 on?

A. In 1933 the Reich Ministry of Finance consisted of three departments, that is, the Budget Department, the Tax Department and the Customs Department. The assignments of the Budget Department became so numerous and so extensive that in the course of the years five departments were organized out of the Budget Department: First, the actual Budget Department; secondly, the department for the finances of the Laender and the communities; third, the Department for Civil Service Law and for ratings; fourth, the department for interstate financial questions and general economic questions and legal questions; fifth, the department for Reich construction projects. In addition to these five departments there were the Tax Department and the Customs Department. Those matters which had to do with organization and personnel of the Reich Finance Administration had thus far been handled by the Tax Department and the Customs Department. It was found to be expedient to set up a special department for dealing with matters of the Reich Finance Administration as far as organization and personnel were concerned. Thus there were eight departments in the Reich Finance Ministry. At the head of each one of these eight departments was a Ministerialdirektor. Apart from these eight departments

there was a general office for general currency and credit questions; the inspector general of the customs and border protection service and a statistical office. All questions concerning the instruction and continuation training of officials of the Reich Finance Administration were taken over by myself.

Q. If you want to say anything more about your jobs as State Secretary I'd be grateful to you. What assignments did you have?

A. First of all, I was the legal representative or deputy of the Minister. Then, from the very outset a division in the work resulted between the direct assignments of the minister and my work. The Minister, Count Schwerin von Krosigk, during his whole time in office, that is to say, since about 1920, was a budget man. Therefore, he was especially familiar with the entire Reich Budget and all branches of the Reich Administration.

Before I became State Secretary in the Reich Ministry of Finance I had concerned myself particularly with taxation and related fields. Thus it was natural, from the very beginning, that the work was divided up as follows: The Minister in his immediate field of work handled particularly questions of budget and I took care of the taxation and continuation training of officials.

Q. Witness, I'd like to interpolate a question here. As an old Party member you are especially familiar with the political conditions existing at the time. Do you know anything and can you tell us anything about why Count Schwerin von Krosigk became or remained Reich Minister of Finance in the Hitler Cabinet? Did this happen for Party reasons?

A. I already said that Count Schwerin von Krosigk did not first become Reich Minister of Finance in the Hitler Cabinet but that he already held that post before in the von Papen and Schleicher cabinets. The way I knew matters, Count Schwerin von Krosigk was not tied to any party in any way. To call him a particularly good friend of the Nazi Party and to give this as an explanation of his remaining in the Hitler cabinet, would be incorrect. He was the outstanding expert in the Reich of finance matters. He was definitely an expert. As such he had become Reich Minister of Finance in the von Papen Cabinet and, as such, he remained Reich Finance Minister in the von Schleicher Cabinet and then in the Hitler Cabinet.

Q. Witness, I want to clarify a few purely technical matters which deal with the transaction of business in the Reich Finance Ministry and later I shall go into specific questions. Please tell us first of all how many employees were there in the Reich Finance Ministry.

A. In the Reich Finance Ministry as a central agency there were approximately 1,200 officials, employees, and workers. In the Reich Finance Administration, which consisted of the franchise, taxation, customs, and construction and which, organizationally speaking, was composed of the customs offices, finance offices and head finance offices and construction offices, there were approximately 150,000 officials, employees, and workers.

* * * * * * *

Q. Witness, didn't Hitler—who, after all as we know now, saw that the development took a trend toward war—didn't he have to try to establish a Ministry of Finance which was especially strong in order to establish the prerequisite—which the prosecution has emphasized here so strongly—in order to realize that, namely, to have money and even more money available.

A. That may be. However, he failed to do so.

Q. As State Secretary, who also on large outline was informed about the negotiations, the budgetary negotiations, we have already briefly touched on the question about the position of the Wehrmacht as compared to the Reich Ministry of Finance. Could you comment on that in more detail? Can you tell us about something that you know now about the position that existed at that time?

A. The position of the Reich Minister of Finance as compared to the Wehrmacht was especially weak. The Reich Minister of Finance had to furnish funds to the Wehrmacht which it needed to cover the financial requirements. However, he was not authorized to take any influence on the expenditures of the Wehrmacht or to speak his word in the construction enlargement of the Wehrmacht.

Q. What brought about this condition? Do you know anything about that?

A. The exceptional position of the Wehrmacht according to the budgetary law was based on a decision of the Reich Cabinet.

Q. Do you know anything in particular about this resolution?

A. The Reich Defense Minister von Blomberg at the time had made the request in the Reich Cabinet to let him have a free hand in the expansion of the Wehrmacht especially with regard to financial funds. The Reich Minister of Finance Schwerin von Krosigk objected and had protested against this request. His protest, however, unfortunately was unsuccessful. He only had the support of the then Reich Bank President Schacht. The Reich Cabinet decided to comply with the request of the Reich Minister and with that to grant a position to the Wehrmacht which was exempted from the budgetary law. With that the

Reich Minister of Finance was excluded from participation in deciding on the budget plans of the Wehrmacht.

Q. Now, subsequently did he comply with this exempted position of the Wehrmacht or do you know that Schwerin von Krosigk took any steps against that?

A. The Reich Minister of Finance Schwerin von Krosigk at every opportunity which was appropriate expressed himself against this position of predominance of the Wehrmacht.

Q. Witness, according to the knowledge of State Affairs which you had at that time, was this done because he feared a war which perhaps had come much closer as a result of the rearmament or which had perhaps now become necessary?

A. Certainly not. From a military armament, after all, the necessity for war does not arise. On the contrary the military rearmament of Germany was a precautionary measure which was to guarantee peace for Germany. However, the situation was that the civilian departments of the Reich again and again took reference to the exceptional position of the Wehrmacht according to the budgetary law and thus the position of the Reich Minister of Finance became more and more unbearable. It could be felt more and more unpleasantly that the Reich Minister of Finance, especially with regard to the Wehrmacht, was only a paymaster of the Reich. The condition was calling for a change.

Q. According to the description which you have just given us about the Reich Cabinet toward Hitler then the competent man for changing the condition would have been Hitler. Did the Minister approach Hitler with this question?

A. By chance in the fall of 1938 I had the opportunity to talk to Hitler. In the course of our discussion I also pointed out that the financial requirements of the Wehrmacht were still increasing. I requested that, now that the rearmament had reached a certain level that the Reich Minister of Finance should be given the position which was due him and the authority which was due him toward the Wehrmacht, and with that the position of the Wehrmacht which was outside of the budgetary law should be obliterated. Hitler replied that he had full understanding for the point of view of the Reich Minister of Finance. However, on the other hand, he would have to insist that for one year the Wehrmacht should remain in its exceptional position beyond the budgetary law. After one year the military armament would have reached the level which the safety of the Reich demanded, then the peace for a great number of years would be safeguarded to such an extent that one could also demand of the Wehrmacht that again they had to economize with each single nail. I can recall particularly this statement that they would have to count with even the smallest nail, very precisely.

Q. Witness, as you stated just now, this was in the fall of 1938, so that the period of time from which the Wehrmacht again was to have another position toward the Reich Minister of Finance was in the fall of 1939. Did you actually have the impression that Hitler meant his expression toward you seriously?

A. That Hitler was serious in his statements toward me was beyond any doubt as far as I was concerned. After having completed his statements Hitler came to speak on his big construction plans to which he wanted to devote himself after completing the rearmament with special enthusiasm. He said that every German should receive an apartment which was adequate and large enough for him. Many extensive reconstruction projects would have to be carried out in the cities. Berlin should become the most beautiful city in the world. It should become the biggest meeting place of foreigners in Europe and so on. The zealousness and the enthusiasm with which Hitler expressed these thoughts of his toward me did not leave the least doubt in my mind of the sincerity of his statements that the military rearmament would be completed after one year and that then a number of years of peace would be safeguarded.

Q. Witness, did you inform your Minister about these statements?

A. Yes. I told my Minister, Schwerin von Krosigk, immediately after my return about the statements of Hitler.

Q. Did you have the impression that Schwerin believed in the words of Hitler?

A. Yes, certainly. After all, there was no reason for him to doubt the sincerity of the words of Hitler.

Q. At any time did you feel any effects of these statements of Hitler?

A. Yes. My Minister repeatedly talked to the Chief of the OKW, Keitel, about this matter and he in turn now seemed, he tended more to follow and to comply with the rulings of the Reich Minister of Finance than he did before.

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Q. Witness, did you have any factual or personal discussions with the Minister in which the possibilities of an aggressive war were mentioned?

A. No, never.

Q. On the occasion of the danger of war in 1938, and I am now referring to the Sudeten crisis, did you have any discussions with the Minister and if so what position did Graf Schwerin von Krosigk occupy at that time with regard to the danger of war.

A. My Minister, Graf Schwerin von Krosigk, was a decided opponent of any idea of war. When in the fall of 1938 the

danger of war was threatening he, in a memorandum to Hitler appealed to him not to go the limit. I experienced his sincere joy when the news arrived about the calling of the Munich conference. He was of the opinion that now the danger of war had been averted.

Q. Did you ever participate in a meeting where from another side the intention of German aggressive war was mentioned.

A. No, never. I never heard anything about Germany's intention to wage war.

Q. Witness, is it correct that the Reich Budget since 1935 was not published anymore? If so, what was the reason for that?

A. The Reich budget was classified as secret and it was not published. We, in the Reich Ministry of Finance, did not consider this secrecy to be necessary. On the contrary, we were of the opinion that keeping the budget secret harbored a certain danger in itself insofar as wrong conclusions might be drawn from the secrecy. I don't know any more on what this secrecy was based. I assume, however, that it was based on a resolution of the Reich Cabinet.

Q. Perhaps Hitler ordered it.

A. Yes, it might have been a personal order of Hitler.

Q. Was the obligation of secrecy perhaps based on the fact that perhaps towards the foreign countries it seemed important to hide the rearmament from them?

A. It may be that this was Hitler's intention. We, in the Reich Ministry of Finance, however, constantly saw the income which the Reich had and the debts which the Reich incurred. From these publications and from other figures which my minister and I announced in discussions or speeches or which other experts knew how to figure out, from that very easily conclusions could be drawn as to the total amount of the financial requirements of the Reich and also with regard to the height of the military expenditures.

Q. Today without any misgivings, apparently, in all countries of the world with the exception of one nation, one also mentions the correct height of the figures. You have seen that in the newspapers, haven't you?

A. Yes.

Q. Therefore, what you want to say is that all this secret stuff, as far as it was to refer to armament expenditures, was practically without any purpose?

A. Yes. I am convinced that there was no military attaché of a foreign power who did not have any access to the figures which he needed in order to gain a clear concept about the status of the German military rearmament and to make the correspond-

ing reports to his country. Furthermore, if we ourselves had not known these figures, then at any time we could have taken them from British trade newspapers [Fachzeitungen]. In England and also elsewhere in the world there were a sufficient number of experts who knew how to figure out these amounts and whenever we heard something about it we usually ascertained that they were approximately correct.

Q. Now, with regard to this subject I have several other questions. Wasn't the figure for armament expenditures so high that the rearmament had to lead to war or to the ruin of Germany?

A. That quite certainly was not the case.

Q. If we speak about the height of the amount, then Hitler after all estimated the amount at 90 billion; for the German Reich also that is quite a considerable sum. Can you comment on that in any way?

A. The 90 billion reichsmarks which Hitler mentioned in the Reichstag session of 1 September 1939 were a fantastic exaggeration. When Hitler had mentioned this sum, my minister and I looked at each other questioningly. My minister and I, after the meeting of the Reichstag, drove to the Reich Ministry of Finance. My minister asked me "How did Hitler get to speak on this amount of 90 billion? This sum after all is much too high. Why does he have to exaggerate like that?" I was of the same opinion that the sum was much, much too high.

Q. Didn't Hitler obtain this figure from your Ministry?

A. No. Just where Hitler had obtained this figure I don't know. I assume that he either took it out of the plain air or that consciously and purposely he named a figure which was much too high in order to cause the impression to be gained by the foreign countries that the German military rearmament was much more formidable than it actually was the case.

Q. In order to get back to my original question—Therefore, you are of the opinion that the debts which had been incurred up to 1939 could have been borne by the German economy without too much trouble?

A. Yes. That is definitely the case. The debt of the Reich at that time, when compared to the size and the capacity of the German economy [deutschen Volkswirtschaft] was not a danger at all. The debt of the Reich for the most part was one which had incurred to the nation itself and in its own economy. The interests in part ran back into the treasures of the Reich. The debts of the Reich at that time per head of the population certainly were much lower than the government debt per head of the population in England and in several other countries. The interest at that time amounted per head of the population in the

German Reich to 17 reichsmarks per year. The interest rate in the United States of America in the year 1939 amounted to 9 dollars per head of the population. The interest rate in the United States of America today amounts to 49 dollars per head of the population. The state debt of the United States of America today amounts to 252 billion dollars.

Q. In spite of that I have one more question on this subject. The Wehrmacht now had been expanded and rearmed. It was in a complete condition. Now, if there was no war, wasn't there the danger that again there would be mass unemployment which, after all, was one of the giant difficulties which had existed before?

A. The danger of a new mass unemployment definitely did not exist. The situation was not either, as is claimed in many cases, that military rearmament had become necessary in order to remove unemployment. In the years 1933 and 1934 unemployment was decreased considerably as a result of the laws for the decrease in unemployment and other measures which were taken in the civilian sector which were aimed at lowering unemployment. If the military rearmament had not become necessary then the German industry would have manufactured the large amounts of consumer goods and industrial goods which were being demanded in the German public economy in which there was a big demand. The most urgent task was the construction of apartments and the construction of settlements in big cities. The requirement in housing which, in the twenty years from 1914 until 1933, had accumulated, was enormous and it became greater from year to year. An enormous demand also existed in the field of high level construction in enterprises under public trusteeship. Then there was an urgent demand in the field of electric supply, power supply, and in the field of rationalization of agriculture.

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CROSS-EXAMINATION

MR. HARDY: Please put on your earphones. Now, Witness, you joined the Nazi Party on 23 October 1926, is that correct?

WITNESS REINHARDT: Yes.

Q. When did you join the SA?

A. In 1934 I was given honorary rank in the SA.

Q. You became an SA Obergruppenfuehrer on 9 November 1937?

A. Yes.

Q. You were an Ortsgruppenleiter in 1926, isn't that right?

A. 1926?

Q. Right.

A. Yes.

Q. You became the Nazi Party District Leader of Upper Bavaria South in 1927, is that right?

A. 1927?

Q. Is that right?

A. Yes, 1927.

Q. You became the Gauleiter in Upper Bavaria in 1928, is that right?

A. Yes, Upper Bavaria, not including Munich.

Q. When did you receive the task of being the chief of the school for the Nazi Party speakers?

A. That was a correspondence instruction.

Q. When did you become the chief of that school? I am not interested in particulars. Now just when did you become the chief?

A. From 1928 to 1933.

Q. When did you become the editor of the official Party material for the Nazi Party speakers?

A. Around 1928.

Q. Were you not an Amtsleiter in the Reichsleitung [of the Nazi Party]?

A. Before 1933.

Q. When did you become a member of the Reichstag?

A. In September of 1930.

Q. Is it not true that you were in charge of instructions for six thousand Party members to become public speakers for the Nazi Party?

A. That is the number of persons who received the teaching material and the teaching letters.

Q. When did you become State Secretary in the Ministry of Finance?

A. April of 1933.

Q. At that time you became chief of the section which dealt with finance and taxation, is that right?

A. I didn't quite understand the question.

Q. Upon receiving your appointment as State Secretary in the Ministry of Finance you then became chief of the section which dealt with finance and taxation, is that correct?

A. Yes. There were Ministerial Directors who were the department heads. I was the Deputy of the Minister.

Q. Did you belong to the Academy of German Law?

A. Yes.

Q. When did you become President of that Academy?

A. I never became President of this Academy.

Q. What office did you hold in the Academy of German Law?

A. I held no position. I merely had a discussion once on taxation problems in one of the committees of the Academy.

Q. When were you awarded the Golden Party Badge?

A. I don't remember the year.

Q. You did receive the Golden Party Badge, however?

A. Yes.

Q. Tell us what is the KBS?

A. KPS?

Q. KB, B as in "Baker".

A. I don't know.

Q. You never heard of the unit?

A. I don't remember ever hearing the abbreviation KBS.

Q. Were you ever the Hauptdienstleiter on the Staff of the Fuehrer's Deputy?

A. I received this as an honorary rank.

Q. You were on the Staff of the Fuehrer's Deputy, is that right?

A. I was only kept on the list in an honorary capacity.

Q. And your title was Hauptdienstleiter?

A. Yes.

Q. When you entered the Ministry of Finance in April 1933 and received the rank of State Secretary, you were then the only State Secretary in the Finance Ministry, is that correct?

A. Yes.

Q. Did you ever have any other State Secretary?

A. No.

Q. You maintained that position until the end of the war?

A. Yes.

Q. Were you the only Party representative in the Ministry of Finance?

A. Yes.

Q. How did you consider [Schwerin von] Krosigk? Did you consider him a good Party man?

A. Krosigk was never a Party man.

Q. Did you consider him trustworthy and reliable from the Party point of view?

A. He remained Finance Minister in Hitler's Cabinet because he was an outstanding expert on financial matters.

Q. You haven't answered my question, Witness. You maintained the position as Party watchdog in the Ministry of Finance. Did you consider Krosigk trustworthy and reliable from the Party viewpoint?

A. I did not consider myself the watchdog in the Finance Ministry. I was not the watchdog.

Q. Answer my question. Was Krosigk trustworthy and reliable or wasn't he?

A. Herr von Krosigk was considered a thoroughly trustworthy Reich Minister of Finance.

Q. Did you represent the Finance Ministry in the Party Chancellery?

A. No.

Q. Who did?

A. We had a specialist in the Party Chancellery who worked on financial matters in the Party Chancellery but who had good relationships with me. Toward the end there was an official of the Reich Ministry of Finance who at the request of the Head of the Party Chancellery was attached to the Party Chancellery as a liaison official.

Q. He was your subordinate then, was he not?

A. Not in the Party Chancellery but in the Ministry of Finance he was my subordinate.

Q. Thank you. Now, in the Ministry of Finance is it true that Krosigk handled the budget while you handled taxes and administration?

A. Yes.

Q. Krosigk handled all relationships with other ministers, is that right?

A. Yes.

Q. You participated in the drafting and promulgation of laws and decrees which affected the Ministry of Finance, is that correct?

A. Yes.

Q. You had charge of personnel and organizational matters within the Ministry of Finance, is that correct?

A. Yes.

Q. Now, regarding the promulgation and drafting of laws and decrees, did the Reich Ministry of Finance draft its own laws and decrees?

A. I have not understood the question correctly.

Q. Did the Reich Ministry of Finance draft the decrees and laws which pertained to matters of finance itself or did some other agency draft their decrees for them?

A. These decrees and laws which were purely issued for the Reich Ministry of Finance were drafted in the Reich Ministry of Finance.

Q. Then can I assume that any time you or Krosigk signed a decree from your position as a member of the Ministry of Finance that you participated in the drafting of that decree?

A. Yes.

Q. Then I am to assume that no decree exists wherein the name of a representative of the Finance Ministry is found that Krosigk didn't participate or you?

A. That's right.

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Q. All right, Witness. You mentioned yesterday, in your direct examination, with reference to Hitler's speech of 1 September 1939 in which Hitler boasted that Germany had spent 90 billion reichsmarks for her rearmament, that this figure of Hitler's was a fantastic exaggeration. Now, would you be kind enough to give me the right figure?

A. I no longer know the exact figures. I estimate that the exact figure probably amounted to 50 to 60 billion reichsmarks.

Q. Then instead of the figure 90 billion you are willing to concede 60 billion; is that it?

A. I can't give you exact information. I estimate it to be between 50 and 60 billion.

Q. Now, yesterday you told us that it was foolish not to publish the budgets of the Wehrmacht as it was very easy for experts abroad to figure out how much Germany was spending for the Wehrmacht. Well now, how could experts abroad figure that out without the exact figures?

A. The experts knew the extent of the tax receipts of the Reich and also the status of the Reich's debt.

Q. The status of what?

A. The Reich's debt. From these two publications, and on the basis of the figures which my minister and I occasionally publicized during speeches we held, interested parties could easily calculate the extent of the entire financial need of the Reich.

Q. Then Hitler's secrecy program was to no avail; is that your answer?

A. I don't know what significance Hitler attached to this matter.

Q. Now then, Witness—

A. We in the Reich Ministry of Finance thought that all the secrecy was entirely superfluous.

Q. Now, Witness, if an expert abroad, without having possession of the figures, could figure out how much you were spending for rearmament, can you kindly tell me whether or not you were aware of the amounts received, for instance, by the Ministry of Economics spent for building the Autobahn [super highway system] and for the establishment of underground gasoline storages and for factories producing sulphuric acid? Were you aware of those figures as a State Secretary and as Finance Minister [sic], not as a foreign expert without possession of the facts?

A. I didn't know these figures. After all, these are details. Interested experts, however, knew the total figures.

Q. All right, Witness. You signed, did you not, the eleventh Decree to the Reich Citizenship Law of 23 [25] November 1941?*

A. Yes.

Q. Now, at the end of 1944 did you not issue orders to destroy the secret files of the Finance Ministry?

A. There was a directive by the Plenipotentiary General for Administration, according to which files were to be destroyed when the enemy advanced and this directive was transmitted by me.

Q. Now, if the Finance Ministry or you particularly, as you have stated here on direct examination and stated here again for me on cross-examination, didn't feel that it was important to keep the Reich's budget and the Reich's Finance Ministry matters secret, why did you find it necessary to issue orders to destroy the files?

A. This directive did not refer to the Reich Budget. It was a directive which quite generally referred to secret matters which were to be destroyed at the approach of the enemy.

Q. All right. What are these secret matters that you refer to? Tell me about it.

A. These were matters which bore the designation "Secret." Since 1939 and even much earlier than that every third or fourth piece of paper was designated with the word "secret". There were a lot of papers which bore this designation without it being necessary. The directive by the Plenipotentiary General for Administration provided quite generally that all secret files were to be destroyed before the enemy's approach.

Q. Well then, Witness, you did, however, issue the directive to the officials in the Ministry of Finance to burn the secret files, did you not?

A. This directive was issued in case of the enemy's approach.

Q. Did you issue it?

A. I transmitted the directive issued by the Plenipotentiary General for Administration.

MR. HARDY: Thank you. I have no further questions.

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* Document NG-2499, Prosecution Exhibit 1536, reproduced in part later in section IX B 1, vol. XIII, this series.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KEPPLER*

DIRECT EXAMINATION

DR. SCHUBERT (counsel for defendant Keppler): Herr Keppler, please be good enough to give us a brief description of your life and career.

DEFENDANT KEPPLER: I come of a Heidelberg family. I was born in the year 1882 and am now 66 years of age. I grew up in Heidelberg, went to school there, attended the Humanistic Gymnasium. My father died when I was still very young. Then, at the age of 18, I graduated from the Gymnasium. I then turned to the study of technology, first of all at the Technical College at Karlsruhe and later on I continued in Danzig. While studying I served with the army, in accordance with the regulations, and while I was still a student I became a reserve officer. I was frequently forced to interrupt my studies, first of all to do practical work, and second as a result of illness. I contracted a heart disease and early in 1911 I had to submit to a very long cure in a sanitarium. The doctors gave up all hope but still I was saved and continued to live. After having been in the sanitarium for 9 months, I left it, and the doctors ordered me to absolutely discontinue my further studies. I would have to take an apartment on the first floor, because I was not permitted to climb stairs, and I wasn't permitted to do any more walking daily beyond one quarter of an hour. My condition improved substantially in due course but nevertheless I report my sickness to you because it impressed its seal on all the rest of my life. I worked a great deal but I lived a very restrained and conservative life and retired from affairs. I devoted all my energies to work and nothing else.

When my condition of health improved at the end of 1911, at the advice of the excellent physician I had at the time, Dr. Rehl —he being, at that time, one of the best heart specialists in existence—I tried to find some work where I could take care of my health at the same time. I then went to a remote relative who had a very small factory near Heidelberg and I worked there. He manufactured a special product, gelatin, for photographic purposes. I was very pleased to enter into such a special field, where I obtained a great perspective over the industry. Of course, I was not able to take part in the war but at the start of the war my health had been so restored that I could take over the plant leadership. Please let me say at this point that at the start of the World War—that is, World War II, this time—I again re-

* Complete testimony is recorded in mimeographed transcript, 16, 19, 20, and 21 July; 1, 2, and 3 September 1948, pages 12537–12562; 12761–12809; 12859–12884; 12891–12949; 13016–13038; 13043–13044; 19267–19336; 19521–19621; 19694–19737. Further extracts from the testimony of defendant Keppler are reproduced later in sections VI C and VI D, and in section IX E 4, volume XIII, this series.

ported for military service, but after my physical check-up I was put into the worst class of all those people even incapacitated for work. Thus it was impossible for me to take part in either of the world wars.

The largest customer for this Heidelberg firm was the Eastman Kodak Company of Rochester, New York. During the war [World War I] we were unable to continue to export our products to them. After the end of the war, gentlemen on the staff of this American firm came to us repeatedly and told us that they had encountered very great difficulties due to the shortage or utter lack of our products and that they had tried to take up the manufacture of this gelatin themselves, with not very good results. They requested me to go to America in order to put their plants in order, or alternatively, to put them into a position of carrying on this production themselves. It wasn't possible for this cooperation to take place because I was anxious at that time to work in the interests of Germany, the times being very bad for Germany. In addition to that, the raw material question in Germany was far more unfavorable. We were able to achieve an agreement, that is, to establish a factory by the name of Chemische Werke Odin G.m.b.H., in Eberbach, which is a little city approximately 20 kilometers distant from Heidelberg on the Neckar. In establishing this plant, the Kodak Company took over 50 percent of the capital stock and the remaining 50 percent lay in my hands, as well as in the hands of the factory for which I was working.

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Q. And now, Herr Keppler, while you were working in Eberbach, did you participate in any political activity? But please be very brief in your answer.

A. During those first years, I was really quite disinterested in politics. I was never a member of any party but later on, for business reasons and considerations, one day I did come to associate myself with politics. A short time following its founding the plant was responsible for far more than half of the revenues which came into the municipal funds of this city and, in view of the idea that prevailed as though the administration of that city wasn't quite a proper one, my partners asked me to become a member of the city council for a short time only and take care of the municipal administration. In view of the fact that municipal elections were imminent at that time, I turned to the bourgeois parties which had joined their efforts for the coming elections and this group assigned me to the thirty-second place on their political list. I asked them to at least review their decision within 24 hours at the utmost and give me a better place, as otherwise I couldn't accept.

Q. Did you maintain any contact with the NSDAP in the city council?

A. I didn't get an answer within the 24 hours, as I had expected; and then I offered to resign, whereupon I was offered the second place on the list. And I put up a non-partisan list, which formed the basis of the strongest party, after all. Thus, I came to be a member of the city council. And thus I got an insight into politics, as I came to know the various parties. Thus it happened that one day I decided to become a member of the National Socialist Party.

Q. What was it in the program of the NSDAP which made a special impression on you?

A. I was impressed by the social political program of the Party because I considered the greatest problem of Germany to be the solution of its social problem because, particularly in Germany, there was such a rift between the right-wing and the left-wing parties and the rift was constantly increasing. Thus I came to see the main problem as being a solution of this confusion and rift. On the basis of my own experiences I had come to know that there is a way of bringing about such a solution; thereupon I looked at the parties closely and I had to recognize that the older political parties no longer exercised any substantial influence on the workers because the workers turned forever more to the left-wing parties. The social aims of the Social Democratic Party did meet with a certain interest on my part but they had chosen the class struggle in order to bring about their objectives. I couldn't accept that by any means. Our trade unions were, contrary to those of the United States, essentially political organizations and the most important trade unions belonged to the Social Democratic Party, which also had as its instrument the development of the class struggle. In the program of the NSDAP I found my own desires and wishes substantiated and thus it came about that I joined the Party exclusively, on the basis of my views on social affairs.

Q. Herr Keppler, when you joined the Party did you hope to derive any personal material benefits?

A. At that time, of course, this was utterly out of the question because at that time it wasn't possible to find employers or to earn any money. I wasn't able to expect any promotions. On the contrary, all I could expect was to derive disadvantages for my person and, apart from that, the Party had a very rough exterior because the members of the Party consisted of farmers and workers. But, nevertheless, I recognized that it wasn't only opportunists who had entered the Party but the Party members were substantially idealists and most of them had been driven

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by a desire to solve the social problems which existed. Of course, there were also other circles represented in the Party; there were very prominent scientists who belonged to some society and I wish to emphasize that in a good sense. It was particularly at the time of the seizure of power that a number of princes joined us; the royal houses of Mecklenburg and Oldenburg; from the Hesse family, the later Prince Consort of the Netherlands; the cousin of the King of England; the Arch Duke of Coburg and others. These were people who really were close to the people and felt a social responsibility but, on the whole, the Party was rather rough in its exterior; and I was well aware that many things could be better than they were. But I had made up my mind to really contribute my labor honestly in order to eliminate, so far as possible, what I considered to be wrong in the Party.

Q. Herr Keppler, may I direct your attention to the fact that maybe it would be advisable to speak a little slower, to avoid the yellow lights flashing. And please be good enough to interpolate a pause now and then. Upon entering the Party, did you already know Hitler?

A. No. I didn't know him then.

Q. And how did you come to know him for the first time?

A. First of all I heard Hitler speak in Stuttgart but I wasn't introduced to him personally. Then, in the fall of 1927 Hitler asked me whether I would permit him to call on me. He then came to see me and, of course, on the occasion of that visit we had a long and detailed discussion on politics. Primarily, of course, we discussed the social problems of the times; and I told him, in detail, of my own experiences with my workers. Then, we also discussed the economic program, which I considered absolutely unusable and untenable. Then, we discussed the Party program of the "twenty-five points"; and the Fuehrer told me right away, that as a young man of 31 years of age, he had drawn up this program and in the meantime, of course, he had come to realize that there were many things contained in the program which he could not honestly implement in the manner which he previously thought he could. However, he stated that he did not desire to have these items called up for a general public discussion. Then we especially discussed the Fuehrer Principle and he pointed out to me that the Fuehrer Principle was not anchored at all on the 25 points of the program but that he considered an authoritarian regime necessary until Germany had emerged from the disastrous times. Perhaps I may briefly mention here, because it is not generally known, that approximately up to 1938 the Fuehrer was a monarchist; a democratic monarchy, in the sense of the British Constitution, was the one that he had in mind. But he discussed

this subject only in the very closest circle of friends and did not permit any discussion in public.

Q. Did you subsequently come to know Hitler better?

A. I maintained contact with Hitler. He visited me once or twice. I met him in Munich and in some other places and I came to know him more closely. The impression of his personality was an extraordinarily pleasant one at that time. At that time he was an extremely modest, pleasant-minded man, of good disposition, actually really always very moderate in his views if you talked to him. Maybe Your Honors will be surprised to hear that his extraordinary kindness was his conspicuous characteristic at that time. I repeatedly discussed with my comrades whether it would be possible for a man of such kindness to bring up such a hardness and toughness of character as a statesman needs. He forced himself to take on such a character subsequently and that is when disaster subsequently set in. Perhaps you will also permit me to mention that I lived together with my very aged mother, right up to the end of her life. This woman, who was high above average in her judgment of character, was conspicuous for a very critical, but I may say, a very good knowledge of human character—a characteristic which many women have. When the Fuehrer came to me for the first time, my mother was dismayed to hear that he was proposing to visit me and I was actually worried because my mother turned down particularly all propagandists. But within a very short period of time they understood each other excellently and that also calmed me very considerably at the time.

Q. Herr Keppler, during those years while you maintained closer contact with Hitler, did you frequently discuss foreign political questions with him?

A. I can hardly remember ever having discussed foreign policy with him before he came into government. The main items were always social policy, domestic problems, and economic problems because I, myself, was an economist. I held a point of view that if only the social problems were solved then it would be possible to stop the workers from sliding over altogether to the left wing parties. Of course we had our eye on the adjacent Russian regime.

Q. And when did you become a co-worker of Hitler?

A. Over and over again I drew the Fuehrer's attention to the fact that his political program was untenable. In December 1931 Hitler requested me to come to Munich and he notified me that he had considered my criticism as being justified from the very beginning and he was doing his best to amend matters but he had not been able to bring about an improvement. He had taken in

one or the other man but these people had been failures. He requested me to come to him in Munich and take over the handling of economic problems. I turned this down and I emphasized that those gentlemen who were handling economic questions for him were people with whom I could not cooperate, either in personal or in technical respects, and there wasn't anything I thought that the Reich [of NSDAP] Leadership could achieve along the lines they were going. Thereupon Hitler requested me to hold myself at his personal disposal. I accepted that in due course because, after having expressed all my criticism, I felt it to be my duty to contribute my own work to bring about an improvement of conditions. However, I do have to emphasize the following at this point. Despite my good contribution and work in the Eberbach plant, I had determined to resign from my post. This was due to relationships I had with my German partners. There was this old relative of mine who had arteriosclerosis and therefore had been incapacitated to do any further work and I could not very well work with him so I decided to leave the works altogether. As far as the gentlemen of the Kodak Company were concerned, they came to see me in Berlin, subsequently, and I maintained good relationship. The Fuehrer heard of this and that was the reason why I desired to resign. Then, early in 1932, I transferred to Munich and I collaborated on economic problems for Hitler.

Q. Now, Herr Keppler, please be good enough to tell us this. Seen financially, wasn't it a very bad business transaction that you entered into?

A. Of course, financially speaking, it wasn't good business for me at all. First of all, I worked for one and one-half years without being reimbursed at all. I had formerly had a very good income and I could have had a similar position again, any day I wanted it. Bankers offered me considerable loans and credit if I wanted to set myself up in business. So, seen financially, the business was bad business for me.

Q. At that time, referring to the early part of 1932, when you took up your activity with the Party, or let us be more correct and let us say with Hitler in economic problems, were there any other men in the field of economics with whom you maintained contact?

A. When, in early December 1931, I discussed this matter with the Fuehrer, he took a point of view which was the right one; that is, that the men he had been using up until then had been purely men of theory and that they had had no practice and no experience. Then he asked me whether it would not be possible to gather a number of industrial executives—they did not have to be Party members but they had to be men who had proved

themselves to be men of great ability in economy—and have these men hold themselves available to us for consultation and for advice. That is what I did and, by this means, the recently well-known "Circle of Friends" [Freundeskreis] came into being, in connection with which I am also being tried.[1]

Q. We will refer to this in the second portion of our examination. Don't let's go into this now. Now at this stage, because the period of time we have reached is the year 1933, I would like to ask you in this connection the following only—substantially you have already indicated it but I wish to ask you—in connection with the so-called seizure of power in 1933, did you have any reason to believe that this change in the government would later lead to an aggressive war?

A. As I already indicated before, at this time I hardly ever touched upon questions of foreign policy with the Fuehrer and all thought of aggressive warfare was entirely remote—the idea that the Party would lead to aggressive warfare. Moreover, Germany was in a position at that time where any act of aggression was out of the question.

Q. Again, Herr Keppler, please let me request you to slow down. We do want to get a proper transcript. Now you say that at that time you had nothing to do with questions of foreign policy. Now, as far as the span from 1933 to 1937 is concerned, when you did come to be involved in questions of foreign policy, we will enter into it very briefly, in order to clarify your position and later developments. I would ask you, therefore, to be very brief and describe that period of time.

A. First of all, in Munich, I prepared the economic measures which were necessary to be ready at the time when the Fuehrer would come into power. Primarily, this was a problem of unemployment and a problem of reviving economy. In June of 1933 the Fuehrer recalled me as a delegate from the World Economic Council in London and asked me to work for him and to carry the title of Plenipotentiary of the Reich Chancellor for Economic Questions [Beauftragter des Reichskanzlers fuer Wirtschaftsfragen].[2] This was the same period of time when Hugenberg[3] had to resign from his economic positions, Kurt Schmitt became Minister of Economics, and the defendant Darré

[1] In the introductory part of the indictment (sec. I), where the leading positions of the defendants are listed, Keppler was charged with being "a founder and member of the 'Circle of Friends' of Himmler." Keppler was charged with membership in the SS subsequent to 1 September 1939 in count eight of the indictment (Membership in Criminal Organizations). Concerning the Himmler Circle of Friends, see the Flick case, volume VI, this series.

[2] Keppler's office in Berlin was not attached to any specific Ministry and was commonly referred to merely as the "Keppler Office."

[3] Alfred Hugenberg, leader of the German Nationalist People's Party (Deutschnationale Volkspartei), 1928–33; and Reich and Prussian Minister of Economics, 30 January to 29 June 1933.

[became] Minister of Food and Agriculture. While working for the Fuehrer, approximately at the end of 1934, I also received the assignment of devoting my attention to the production of raw materials for German requirements. In the spring of 1936 Goering already received a quite far-reaching assignment in the field of raw materials and foreign exchange and afterwards, in September 1936, this assignment was extended to be the Four Year Plan. Thus my activity as Economic Plenipotentiary became invalid because Goering took over all the matter that I had been handling up to then. I then contributed my efforts for some time to the Four Year Plan. My efforts were small, for the reasons that I will describe to you later on. Then there was a short intermediary period; and then subsequently a short period where I had been assigned for Austria.[1] After my Austrian period I left the Four Year Plan altogether and I was given the organization and management of a new Reich Office for Soil Research [Reichsamt fuer Bodenforschung] which was an institution for geological research similar to one existing in Washington. During the war I devoted myself exclusively to this soil research work, leaving all other work, and I also undertook various other research work in the technical and economic field. By title I was State Secretary up to the end of the war but I did not play any part any more in the Foreign Office.

Q. Your Honors, will you permit me to refer to an interpretation inconsistency? The defendant Keppler was saying that he had been Plenipotentiary of the Reich Chancellor for Economic Questions—not of the Reich—Plenipotentiary of the Reich Chancellor for Economic Questions.

A. Maybe you will let me add, first of all, I became Plenipotentiary of the Reich Chancellor for Economic Questions and after Hindenburg died, the name and title that the Fuehrer carried changed, and thereupon, I also carried the title Plenipotentiary of the Fuehrer and Reich Chancellor for Economic Questions.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT PLEIGER[2]

DIRECT EXAMINATION

DR. SERVATIUS (counsel for defendant Pleiger): Witness, your personal data, please?

DEFENDANT PLEIGER: My name is Paul Pleiger. I was born

[1] The next ensuing testimony of defendant Keppler dealt more directly with foreign policy. Further extracts from his testimony on that subject are reproduced in section VI C.

[2] Complete testimony is recorded in mimeographed transcript, 4–6 and 9–11 August 1948; pages 14770–15002; 15097–15174; 15267–15375; 15493–15521. Further extracts from the testimony of defendant Pleiger are reproduced in section XI C 4, volume XIII.

on 28 September 1899 in Buchholz in Westphalia, being the fifth of eight children and son of a miner. My father's name was Heinrich Pleiger.

Q. Be good enough to describe your professional career. What training and experience have you had?

A. While still with my parents, I became acquainted with worry, hard work, and my parents' struggles. I learned to know how hard a laborer had to work if he wanted to make ends meet for his children and to give them the proper training and education to equip them for their future life.

Q. What training did you receive?

A. After attending Volksschule [elementary school], I became an apprentice in order to learn the trade of a mechanic. The name of the firm was Duesterloh in my home area [Heimat]. They produced mining equipment.

Q. Did you acquire any expert mining knowledge?

A. In view of the fact that my father himself was a miner and I had been an apprentice for four years, by these means I became very thoroughly acquainted with the techniques of the mining industry. In addition to that I saw that in my home area the Montan industry, that is the coal and iron producing industry, is actually localized there.

Q. Did you terminate any vocational training at school?

A. After having attended the machine construction school in 1919 and up to 1921 I obtained a position as an engineer and designer with the Harpener Bergbau in Dortmund and by these means I became acquainted with the modern mining techniques and designing techniques.

Q. Did you retain a permanent position there?

A. No. After the inflation started in 1925, at the worst time of the crisis, I founded the machine construction plant, Paul Pleiger.

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Q. Were you a member of any political party at that time [1930–1931]?

A. In 1931, for the first time in my life, I joined the German Nationalist People's Party. Up to that time I had never carried on any political activities whatever.

Q. And why did you choose this particular political party?

A. In 1931 and up to 1933 there were more than thirty parties in Germany, each one of whom tried to find ways and means in order to revive German economy which was in its last stages.

Q. Did you remain with this party?

A. No. After 5 months, approximately, had passed I left this party. I did so after an election rally which took place in Bochum

in connection with which the leader of the German Nationalist People's Party, Hugenberg, addressed the rally. He developed his program to the rally and from the knowledge which I had gained of the actual conditions prevailing, above all in my native town, and in view of my close connections with my own workers in my own plant and through the many trips I had taken in my capacity as a business man to inspect individual shafts, as a result of all that, I knew the people's will much better than Hugenberg could since I had to and I said, in my opinion in the truest sense of the word, he misunderstood the conditions at that time. In my opinion this party was not capable of gathering those national forces and uniting those national forces which were prerequisites in order to save us and raise us out of the chaos which prevailed.

Q. You then joined the NSDAP?

A. Yes. Due to the large massing of industry in the Ruhr area—that is in my native locality—and in view of the tremendous unemployment figures at the time, it was natural for communistic ideology to prevail, particularly in my own native town the Communist Party was strong. Above all, in Essen, in Gelsenkirchen, Bochum, Dortmund, and so forth. Only a person who, like myself, saw the entire course of the development in the Ruhr area, starting with 1919 and going into 1931 and 1932, only a person who experienced it all as I did myself, who knew the various attempts, the riots, strikes, and struggles and conflicts; only such a person will be able to understand the misgivings I had concerning further developments in the interests of my Fatherland.

Q. When did you actually join the NSDAP?

A. Shortly after Hugenberg made his speech, Hitler made a speech in the same election campaign in the Westphalia Hall in Dortmund. This was the first demonstration in which I took part and on that occasion I saw the hypnotic force that he exercised over people. He referred to the great dangers arising from communism and he told us of his economic ideas and, above all, of his political ideas and plans. His statements convinced me and thus it came about that early in 1932 I decided to join the NSDAP.

Q. Did you deploy any special activity in behalf of the Party?

A. In my own native town then and in the course of 1932 I took over the management of the Ortsgruppe. The Ortsgruppe comprised approximately 150 to 200 Party members, and simultaneously in my native town, the Ortsgruppe was also in charge of the SA-Sturm, but without myself being a member of the SA. At that time it was still possible for that to be done in my native town.

Q. Did you deploy any political activity in your own community?

A. Yes. In 1933 I became honorary community chief [ehrenamtlicher Gemeindevorsteher] in Buchholz, my native town. Later on, we were given the title of Community Mayor.

Q. How big is this community?

A. It comprises about 1,300 inhabitants, approximately.

Q. How did you obtain these appointments?

A. My wife's family, as well as my own family, had been living there for generations past. In addition to that, I contributed the largest amount by way of taxes and actually I retained this honorary office as Mayor up to the time of the collapse.

Q. Did you exercise any other political influence in the community life of your town?

A. In 1933 I was elected to the provincial Landtag [assembly] of the province of Westphalia, and at the same time, I was elected into the district committee [Kreisausschuss] of my native district, the Ennepe-Ruhr District.

Q. Didn't you, yourself, deploy any activities in the Party organization?

A. Yes. I was Economic Adviser [Gauwirtschaftsberater] of the Gau Westphalia-South, and I was on the staff of Gauleiter Wagner.

Q. How did you come to be appointed to this office?

A. In my capacity as Ortsgruppenleiter at the end of 1932 I came to make Wagner's acquaintance, he being the Gauleiter; and I discussed my views with him concerning the economic situation of our industrial area, and as far as the various plants and ideas were concerned. Take for example the idea of expansion of the NSDAP in economic questions. In discussions with Gottfried Feder * and Wagner I very strongly opposed such plans and views. You have to bear in mind in discussing this matter that the Gau Westphalia-South, which is the one involved here, is the major industrial Gau of all Germany. There you find all imaginable opposites to be found in the camp of political economy [Wirtschaftspolitik]. They were to be found there in view of the great mixing of opinions.

Q. Thank you, Witness, that will suffice. Your Honors, I beg to inform you that the document book 2, pages 6 and 7 contain closer details.

Witness, in your capacity as Gau Economic Adviser, did you find definite guiding principles for your activity when you took office?

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* Construction engineer, economic and financial expert of Nazi Party before 1933 and member of Reichsleitung of the Nazi Party.

A. No. There was no fixed program at all in existence. Various ideas and plans, above all in the fields of exchange and the various ideas on political economy, had no foundation whatever and these were shown as items and topics of my political discussions. But I had the feeling that Wagner, who knew conditions in our Gau very well, also shared my views on economic development and I thought that I had his strong support and this must have been the reason for my taking such an active part in affairs.

Q. Witness, what activities did you deploy in your capacity as Gau Economic Adviser?

A. Around the middle of 1933 I was ordered by Wagner in his capacity as Gauleiter of Westphalia-South, to act as Gau Economic Adviser and to advise him up to the time when I left for Berlin and transferred to the Keppler Office [Bureau Keppler]. Up to that time, for approximately 3 to 4 days every week, I was active in Bochum in the Gauleitung Westphalia-South. In that connection, I worked closely and conferred with the industrialists of the processing industry, and particularly with the exporters of my native area.

Q. At that time there was a definite Party Program in existence covering the economic field?

A. No. There were only slogans to serve for the elimination of the unemployed and everyone tried to handle and deal with these problems in the manner he thought to be just.

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Q. How did you come into contact with the Berlin agencies of the Party?

A. Wagner drew my attention to Keppler. At the end of 1933 or early 1934 I attended a conference in Berlin. This involved recovery aid to be furnished to a community electricity works of my native area; and on that occasion I came to make Keppler's acquaintance and I was asked to take over an honorary office in Berlin.

Q. Did you enter the Bureau Keppler at that time?

A. Yes.

Q. And what happened to your plant?

A. I continued to administer my plant because I was not permanently in Berlin.

Q. What position did you hold in the Keppler Office?

A. I had a very independent position. I worked on an honorary basis [ehrenamtlich—without pay].

Q. And what work did you carry on when you first entered the Keppler Office?

A. My task was to see to it that the German iron and metal ore deposits were reopened and were set into operation. The ores were to be prepared, opened up, and were to be smelted down. In order to facilitate this task in the interest of the employers, the Reich Institute [for Employment and] for Unemployment Insurance issued funds in the form of premiums to be paid for output achieved.

Q. Did you carry on these tasks alone, by yourself, or were other suitable agencies of the Reich called in to participate?

A. This task was carried on in conjunction with the various responsible departments of the respective Reich Ministries in determining and approving the subsidies. The chairman in these conferences was the President of the Reich Institute [for Employment and] for Unemployment Insurance, or his deputy. This was President Syrup at that time. By these means, mines—and there were many of them available—which, pursuant to the economic crisis and pursuant to the inflation, had had to be closed down, were again set in operation. Take, for example, iron, copper, zinc, and lead.

Q. Under what conditions were these financial subsidies made available—these subsidies or output premiums, as you called them?

A. Each *entrepreneur* who employed additional workers and created new assets of economic value was granted approximately 50 percent of the established wage paid in the form of subsidy, which was paid by the cashier of the Reich Institute. This amount corresponded approximately, judging by the figure involved, to the unemployment insurance that previously had to be paid to the unemployed worker. Thus, at the same time, the purchasing power of the working part of the population was strengthened and the consumption of commodities was increased.

Q. I beg to refer to Defense Document Book 2, particularly to [Pleiger] documents PP–16 through 18. You will find data concerning these questions in these documents.

Witness, what was the major point of the activity that you deployed?

A. As a result of the unfortunate end of the war for Germany, in 1918 Germany had lost the basic foundations for iron producing industry. I am referring to Lorraine. Already the Weimar Government, recognizing the untenable character of the situation that prevailed in 1923 to 1925, had decided that the German iron producing industry was to be compensated by the State for the mines they had lost, in order to enable them to newly open up iron deposits in Germany. The objective to be achieved by this measure was that the German iron producing industry was no longer

to be absolutely dependent on iron imports from abroad, and they were not to be subjected arbitrarily to officially fixed prices and quantities. There is no other country in the world which had such a highly developed iron producing and iron processing industry as Germany and yet, as far as the crude iron was concerned, as dependent as Germany.

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Q. Witness, how great was the dependency of Germany in the iron ore industry?

A. The figures after 1918 were approximately in the region of 75 to 80 percent. Therefore, only 20 percent to 25 percent was actually produced in Germany proper. Despite the creation of the Hermann Goering Works, pursuant to the course of development as a result of the war, the ratio of dependency, up to the time of collapse, changed very little in actual respect.

Q. Your Honors, I beg to refer to Defense Document Book 3, where you will find [Pleiger] Documents PP–26, 27, 29, and 30, which are of significance in connection with the subject matter.

JUDGE MAGUIRE: Dr. Servatius, before you go on, may I ask a question with respect to this last testimony?

How great an increase in the amount of tonnage manufactured, or raw ores used, took place between the first period and the war period that you are talking about?

DEFENDANT PLEIGER: Your Honor, after 1933 up to the outbreak of the war?

Q. Yes, just take that.

A. Approximately 5 to 8 percent, expressed in percentages, applying to steel production, Your Honor, if you take the ratio of dependency as a basis for the figure; but steel production rose from approximately 6 million to 19 million in the period of time starting with 1933 and ending in 1937. I trust that my recollection of the figures is correct. And thus you see how this great fluctuation and vacillation comes about.

Q. In other words, your production in steel in 1933 was approximately 6 million tons, and in 1937 it was approximately 19 million tons?

A. Yes, Your Honor. Will you please permit me to refer to the schedule and figures I have available right here?

JUDGE POWERS, PRESIDING: Just a minute, counsel. It is time for the recess. Let's take it and during the recess you can refresh your recollection about the figures.

(Recess)

JUDGE POWERS, PRESIDING: I believe there was an unanswered question when we took our recess. The witness may want to answer the question.

DEFENDANT PLEIGER: Your Honors, I said that steel production in 1932 amounted to 7 million, or to be accurate, 7.2 million tons. 1929 was an economic year which can still be described as a good year and currency situation was still stable; in that year steel production amounted to 18.4 million tons. In 1936 steel production was 19.2 million tons. I think I said 19 before.

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DR. SERVATIUS: Witness, I have approached another subject, the Four Year Plan. Do you know how the Four Year Plan came to be set up?

DEFENDANT PLEIGER: According to my personal opinion it was a result of the increasingly difficult currency situation and the economic conditions which were endangered as a result. In the articles which I wrote in 1933 and 1934 I described the true situation in a most lifelike manner, what the foreign currency and what the import and export situation was. Since Germany was one of the biggest importers of raw materials and in view of the high industrial part, the proportion of German national economy as a whole, if raw materials got scarce and if it was possible to put a stop to this quickly by means of foreign currency transactions, a very bad setback could have resulted.

Q. Before the Four Year Plan was founded did you deal with that question?

A. No. I wasn't asked.

Q. Were you taken over into the Office for Raw and Synthetic Materials at that time?

A. Yes. I had to join. Herr Koerner was asked about that yesterday.

Q. Is it correct what Herr Koerner said yesterday?

A. Yes. The conversation was really very dramatic. Actually I had intended to leave. At that time I had only contracted myself for two years to Keppler because I took the standpoint that the difficulties in getting started would be overcome within that time and that I would then have fulfilled my patriotic duty. I deliberately felt myself as a free and private individual with Keppler or behaved as such, as there were only very few of us in the Keppler Office and we placed very high value on operating as economically as possible.

Q. Witness, this conversation with Goering, did that intimidate you to such an extent that you took up the office?

A. I am not so easily intimidated but I think in my opinion there was no possibility, no alternative, because Goering took the standpoint that he could not afford to take on an assignment that had been given him and if I hadn't taken that on—thank goodness, I wasn't alone, Kehrl was there too—then he would consider

it sabotage. I wasn't to imagine that I had any chance of working in private industry after that. He would take my firm away from me and made other unpleasant remarks. According to our opinion at that time, that was the recognition and the thanks for the two years honorary work in Berlin which brought us nothing but worry, annoyance and trouble.

Q. Was that the first time you had dealings with Goering?

A. Well, I think that together with Keppler I attended one or it may have been two meetings—I think it was one meeting, though—where ore questions and similar matters were discussed. It was the first time that I was in personal contact with him.

Q. What was your position in the Office for Raw and Synthetic Materials? Were you an official, a civil servant?

A. No. That was the condition I made that I was to remain a free and honorary worker. I refused to become a civil servant.

Q. What were your functions in this office?

A. I exercised the same functions as I had with Keppler and continued these in the Office for Raw and Synthetic Materials. The only difference is that under Keppler there were perhaps 13 or 15 of us and here there were several hundred, so we had really gotten tangled in a bureaucratic apparatus, but I only spent 6 or 7 months working in the office and I really never got so far as to feel at home there.

Q. What was the iron situation for the Office for Raw and Synthetic Materials while you were working there?

A. As a result of the boom the individual consumption had risen enormously. If you study the statistics of developments in world economy you will find that the vacillations run in parallel lines. Goering as Plenipotentiary for the Four Year Plan, as a result of the boom, had to appoint General von Hanneken Plenipotentiary General [for Iron and Steel Production and Allocation] who was to carry out very stringent iron rationing.

Q. Was the situation so difficult in that sphere?

A. Yes. Considerable restrictions resulted and some plants had to cease work especially in my home, that is Westphalia, where iron was of the utmost importance.

Q. Was the question of unemployment still decisive at that time?

A. No. But iron and especially iron ore at that time was very much sought after in the world market so ore prices could increase or shipments could be cut down to a considerable extent.

Q. What was your aim? Did you want to establish an autarchy in this sphere of iron?

A. No. It was impossible to do that. I only wanted to reduce the percentage of ore imports in order to avoid the danger of a

price dictatorship on the foreign market. It is a matter of cours that if I as supplier know that my customer is dependent on my ore, that I exploit this situation with the utmost enjoyment.

Q. How did your work develop after that?

A. I continued my efforts which I had already started in the Keppler Office in my work in the Office for Raw and Synthetic Materials with greater energy than before. This situation in the iron field especially had become considerably more acute. My last suggestion was that a fairly large iron company should be founded to serve the purpose of exploiting German ore, promoting it and distributing it through a fair key or plan, taking into greatest possible consideration the interests of private enterprise. Whoever relied on German ore was, because of the fact that Swedish ore to all intents and purposes cost only 50 percent of what they cost in 1931, naturally at a considerable disadvantage.

Moreover, German ores, as far as the iron content and purity are concerned, when compared with Swedish iron ores, were far worse. My suggestion was that the company should be given a capital of 100 million reichsmarks, in order to show on what scale we were planning to work. Fifty million reichsmarks of that sum were to be provided by the Reich in the form of a Reich guaranteed loan. In order to compensate, to some extent, the currency discrepancy I had to obtain approval of this plan from the competent Reich agencies and especially—and this was the decisive fact—I had the approval of the Reich Minister of Finance.

Q. Who was Reich Minister of Finance at that time?

A. Herr von Krosigk.

Q. And how is it that the Reich Minister came to approve your plans as the donor of the money and your financier?

A. The Reich Minister of Finance appreciated the importance to national economy of exploiting and smelting the German ores. I am entirely convinced that if he had had the faintest idea of what would come of all this he would have given us much more.

Q. What was the attitude of the other ministries?

A. The handling of this question lay within the Four Year Plan. That is why I did not talk in detail about this to the Referentens of the other ministries. But, as far as I remember, I found that opinions differed considerably, especially with the Ministry of Economics. It depended upon under whose influence they stood.

Q. Was there any idea of a state enterprise at that time?

A. No. It was always my idea that industry itself would carry out the task. That was in accordance with my basic attitude because I always stuck up for free enterprise and this is shown especially by my press publications.

Q. And why did the idea of leaving this to free enterprise fail?

A. This plan failed because of the ill will of the industry, which had reported in detail again to Goering and laid down their ideas in such a way that, in my opinion, the men who were responsible, when they realized that the situation was getting serious, couldn't retreat any more. For two years I negotiated with industry about this problem, and they always denied that my plans could be carried out.

Q. To what sphere did your plans extend?

A. I dealt with all the deposit areas in the Keppler Office and continued this work in the Office for Raw and Synthetic Materials in an extensive manner. Moreover, I met the well-known geologist, Professor Weigelt, who was Rector of the University of Halle, and who, but certainly, in 1923 or 1924, had used part of the funds made available by the Reich for compensation of the Lorrainian mines and blast furnaces—or rather in 1918 and 1919, it was—he had used some of these funds, had examined the Salzgitter deposits and had already carried out some boring, including the well-known Johannes boring, which was carried out most successfully. A deposit at a depth of one thousand meters was opened up, having a very good ore.

Q. I here refer to my document book 3, Document PP–32 [Pleiger 32, Pleiger Ex. 34], an expert opinion by Professor Weigelt, who has died in the meantime, and who carried out the geological investigations. And what was the result of your collaboration with Weigelt?

A. As a result of our discussions and of the investigations of the Salzgitter areas, which I carried out very thoroughly, I was able to study the entire area in great detail geologically and wherever there were ore out-crops because the ore is on the surface there at the deposit areas and goes up to a depth of one thousand meters. Moreover, I realized that this was the biggest German ore deposit in existence.

Q. But many experts denied that energetically, didn't they?

A. They did. But as a result of my studies of the facts I collected in geology altogether of the Salzgitter area, and especially as a result of the discussions with Weigelt, I managed not to be confounded by these opposing views. I did not assume that there was as much ore there as exploitation actually showed later on. My statement was something in the nature of 50 to 60 percent of the ore that there actually turned out to be. In addition Weigelt, in my opinion, was one of the best known geologists. He was responsible for the famous "Geiseltal," diggings or excavations and for installing a big museum in Halle which had international

fame. There he showed the entire geological landscape from the Ice Age and he reconstructed it. Moreover, he had spent a long time abroad in Mexico and in the United States working as an oil geologist, and he was very successful in that work.

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Q. You were convinced that the ore was available. What did you conclude from that?

A. I had decided to promote the exploitation of this ore by all available means and to get my own way in the matter because I considered this a task which, seen from the point of view of national economy, could be of the greatest use for generations to come.

Q. And how did you set about realizing your aim?

A. There was a conference with Goering, State Secretary Koerner, Colonel Loeb, as head of the Office [for Raw and Synthetic Materials], and myself. We all attended. As my partner, Goering and Loeb had given me Dr. Wenzel. He appeared as representative of the iron producing industry and as leading expert. However, I was not acquainted with his report at that time.

Q. And what was the result of that conference?

A. Dr. Wenzel said that not only was there an insufficient amount of ore available but the ore that was there was unsuitable for smelting. That was his view which corresponds 100 percent with those of the prosecution. That contradicted the opinion which years earlier he had laid down in the report I mentioned before. Wenzel maintained that all my proposals and ideas were nothing but phantasy and that all the views which he represented were quite responsible. He approached me, above all, and said that it was very easy for me to make a demand which they had to fulfill. I didn't have the responsibility. That was a very comfortable kind of courage, and some other rather unpleasant statements were made but I don't want to go into this here.

Q. What was Goering's attitude?

A. Goering left me in the lurch completely, and I will openly admit that at that time I was deeply disappointed because in other fields he was always most courageous and generous and I particularly emphasize the word generous.

Q. And what did you do then?

A. I collected all the statistics and data that I could lay hands on. In addition I had a short detailed discussion with Professor Weigelt and once again made certain that my opinion was correct. The great differences of opinion hinged on the fact whether the ore really existed to a depth of three to four hundred meters, in some case to one thousand meters, in the same quarter as at the out-crops and whether there was enough of it. Then, was it worth

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exploiting and was it sensible from the point of view of national economy?

In such a situation, of course, one can only work with faith and one must be able to reconstruct the entire situation of the landscape and I made models to show the entire area and constructed it with Weigelt.

Q. Did you do anything practical? May I remind you of Herr Roechling?*

A. I talked to Hermann Roechling who, just in the sphere of smelting of poor acidulous ores had very advanced ideas and also in the technique of iron smelting and research, already had a large amount of experience. As a result of a conversation with Roechling at the "Gute Hoffn-u-ngs Huette," my attention was drawn to Corby and to the builder of the blast furnace, Hermann Brassert.

Q. Where is Corby?

A. Corby is located near London. This blast furnace was built, I think, around about 1931, 1932, 1933, and 1934, on an ore basis which, as far as iron content was concerned, was even lower than Salzgitter. That is, the average in Salzgitter is 30 percent iron, whereas at Corby the average is 28 percent iron. Corby ore, however, has a much more friendly character. It does not contain nearly so much silicic acid and so, as far as the technique of preparation goes, it is rather easier to handle. But it is smelted on an acidulous basis which, up to that time, had been considered impossible. Brassert, with great success, built a modern smelting plant there and I managed, together with Roechling and my assistant, Rheinlaender, to fly to London and to get in touch with Brassert.

Q. Did the fact that Brassert smelted the poor ore in England, which is after all rich in ore, did that have a great influence on you?

A. Yes. I can say that just this particular fact made a very great impression on me. If rich England (rich on an ore basis) had ore which corresponded to the German ore basic, set up a furnace and channeled these ores through to the national economy, moreover with a much shorter naval route to Sweden and if poor Germany could not smelt ore ourselves, then that determined me to exploit the Salzgitter deposits. If I had omitted this after learning this fact I could not have faced my conscience.

Q. How did you get in touch with Brassert?

A. Roechling knew Brassert. Moreover, Brassert had given an expert opinion for the American bank consortium concerning the U.S. loan of 200 million dollars in 1926 to 1927. Herr Roech-

* Roechling was one of the foremost figures in the German iron and steel industry. He was tried by a Tribunal in the French Zone of Occupation. See appendix B, volume XIV, for the indictment, judgment, and judgment on appeal in the Roechling case.

ling took me along to London, introduced me to Brassert, not in my capacity as an official in the Office for German Raw and Synthetic Materials because I had not obtained official permission for this trip, but as an individual. Brassert showed us the ore deposits and the foundry and it became very clear to me what tremendous possibilities Salzgitter had and what it would do for the national economy. I asked Brassert immediately—after about two hours of inspection of the plant because I knew exactly what I wanted to find out having dealt with this subject for years—whether it was possible for him to smelt ore on the basis of the analysis I had developed so that it was worth while from an economic point of view. I drew his attention to the fact that the silicic acid content was higher than in Corby and he said that in order to be able to carry through a smelting process with a slag percentage of 1.75, the silicic acid-calcium content can amount to 0.75 calcium to 1. of fluoric acid. So, anyway he answered my question in the decided affirmative, even on the ore basis I described to him, with the analysis I showed him. I further asked him whether he was prepared—that was my idea at that time—to build a furnace in Germany to smelt this ore with an output, according to my estimate, of something like 3 million tons per year of pig iron, under the same conditions as he had done with Corby for Stewart and Lloyds, or rather, would he build. To this question, too, he said yes and said that he would be very pleased to be able to carry out pioneer work of this kind for Germany; whereupon I said that I believed that in 4 weeks at the latest I would have obtained a decision, the results of which I could not at the moment foresee at all. If in about 4 weeks he had heard nothing from me, he was to assume that my plans had failed and I would have drawn the consequences.

Q. And so you left him with this promise to let him know?

A. Yes. I said good-by to Brassert, firmly decided to try everything in order to put my plan into practice. And so I went back to Berlin.

Q. And what did you do in Berlin?

A. Well, I had to force a decision within a very short time. I was firmly convinced that the iron and steel situation was one which was bound to interest Goering, as Plenipotentiary for the Four Year Plan. At that time there had been quite a lot of plants cease work—there are documents to show that—so, in my opinion, the situation was very favorable and I decided that I would bypass the official channels, through Chief of Office [for Raw and Synthetic Materials] Loeb and State Secretary Koerner, and approach Goering directly.

Q. How did you do that?

A. My secretary, Fraulein Reichert—I had her get hold of Goering's secretary, Fraulein Grundmann—and through her, had a short memorandum submitted to Goering, in his capacity as Plenipotentiary for the Four Year Plan.

Q. What did the memorandum say?

A. It contained all the arguments by which I might hope to rouse Goering's interest. That is why I pointed out that the plant was of military importance because we were arming all along the line, the foreign currency question; especially, however, I made it clear to him what it would mean if there should be a miners' strike in Sweden, when in only 3 months the whole German industry would come to a standstill. The ore stocks at that time amounted to not over a 4 week supply. It was a situation for me by which I could make Goering take a bite out of the sour apple. There couldn't have been a more favorable argument.

Q. Was your memorandum successful?

A. I was sent for immediately by Goering.

Q. And what did you say?

A. I underlined everything all over again, in detail; especially I referred to a strike which had just been carried out in Sweden at that time with great success and I pointed out the dangers which threatened us. At that time I think Spain, too, had entirely stopped supplying us with ore. Anyway it was enough to give him food for thought.

Q. And what was the outcome of this talk?

A. Goering was most impressed but he did not comment at all. I had the feeling that, first of all, he wanted to check up on everything in order to find out whether I had exaggerated or whether I had told the naked truth.

Q. Did Goering also inquire about Brassert?

A. Yes. As far as I was able to find out later, he inquired about Brassert and Weigelt and their reputation in great detail. He even asked the man who was one of the biggest opponents of this project—that was the chairman of the Aufsichtsrat of the Vereinigte Stahlwerke, Director-General Voegler—who knew Brassert very well because he worked there as expert for the American bank consortium.

Q. In your opinion, was Goering impressed by what he found out?

A. He must have been because the very next day I was called up by Goering himself, which I had not expected. He told me that I was to appear before him in 5 minutes; naturally that was impossible—it took a quarter of an hour.

Q. And how did Goering behave?

A. He was very deeply impressed and entirely changed. He asked me about Brassert and Professor Weigelt. I understood that entirely because I could not go to Goering and say I could build the furnace and that I would take responsibility for it because I was not an expert in that field. Anyway, Goering was convinced that Brassert especially was an expert of international reputation and he had also inquired about Professor Weigelt and his reputation and found that was also confirmed. He agreed to my proposals but did not take the figure of 3 million tons I suggested but went right away as far as 5 million; first of all, he even wanted 6 million; but I found out later that this was a matter of Goering's mentality.

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Q. Witness, yesterday we had stopped at your conference with Goering. May I remind you you had handed in a memorandum, Goering had asked for it and was now entirely converted. It was then a matter of obtaining the services of Herr Brassert. Did you draft a plan together with Goering?

A. No. Goering then ordered me to get in touch with Brassert immediately.

Q. Was Brassert still in London?

A. I had agreed with Brassert that I thought I would have a decision within 4 weeks but that time had expired. It had taken me about 6 weeks to get a decision from Goering. Brassert at this time, therefore, was on the liner *Normandie* on his way to America. At Goering's instructions I put through a government call and had to try to reach Brassert on the *Normandie* by radio telephone. I was to ask him to return at once.

Q. Did he?

A. Yes. I remember this particularly well because it was the first time that I had talked to a ship on the high seas. Brassert immediately said he was prepared to return on the *Normandie* and Goering commissioned me under all circumstances to prevent Brassert from landing without my being present. I was at all costs to meet him at the ship itself.

Q. Why was that? Why was there such a hurry?

A. Why there was a hurry, I didn't understand at that time. I only understood it later. Goering had sent for Voegler and had asked Voegler about Brassert but although he had told me that I was not to say a single word to anybody about his decision, he himself hadn't been able to stop himself from making his triumph apparent to Voegler. He told him, "Now, I am no longer dependent on you. You have been leading me around by the nose long enough." And now Goering believed, since Voegler and Brassert in view of the financial transaction at that time

[1926–27] concerning the dollar loan for the Vereinigte Stahlwerke knew each other well, that Voegler or his people would try to persuade Brassert to withdraw the assurance he had given to me as a private individual and with that the entire project would have failed because in Germany all firms which built smelting plants were controlled or strongly influenced by the iron producing industry, for instance, the GAH, Krupp, Demag, which belonged to the Vereinigte Stahlwerke, and so on. These were the firms which were considered to be major blast furnace building firms.

Q. And now, how was the contract with Brassert concluded?

A. Well, I brought Brassert back from London and as had been arranged, met the ship. Goering put his red Junkers—52 airplane at my disposal to go to London. That was an airplane known all over Germany in those days because it carried the colors of the Richthofen Squadron. In this mission I had to fly to Croydon near London and meet Brassert. I told him the whole thing and he agreed immediately. I went to London with him, spent the night at his apartment, and the next day we started for Berlin. The next morning we had our conference with Goering.

Q. Did Goering again get in touch with industry, with the Reich Ministry of Economics, or did he do without?

A. No. He faced everybody with the accomplished fact. As I tried to explain it just now I suppose that's understandable. Nobody in Germany had the faintest idea of it. I can say that it had the effect of a bombshell. When we came to see Goering I had suggested to Brassert that we should be satisfied with 3 million tons because otherwise the project would get too big but Goering immediately, as was his habit, fixed 5 million tons. I would like to describe this fact because I only knew the theoretical ore deposits. The ore was still unexploited and it had not been proved that it lay to a depth of one thousand meters underground. If the project was fixed on the basis of 4 or 5 million tons and if the ore deposits should not have turned out to be as good as I supposed and if the geologists of the Reich Institute had been right, it would have been a terrible debacle. That was the reason why I personally tried to put on a brake.

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Q. Who actually planned and built the Hermann Goering Works?

A. There you must differentiate between the blast furnaces and the mines. My associates and myself built and planned the mine alone, even to the boring and investigation of the deposits. The blast furnace was planned and built by Brassert and his associates. Of course, every single step was discussed in great detail

between Brassert and myself and every technical, metallurgical, and economic happening was conveyed to me by Brassert. I know what Brassert thought and felt absolutely because in the last instance it was later confirmed. I was so closely connected with this plan.

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Q. What was the state of the works when the war broke out?

A. We were in the first period of construction, that is, not one-quarter of the program had been finished. According to the preliminary plans, it should have been concluded by 1945 or 1946; that was the date Brassert laid down when he discussed it with me at the end of 1937 and the beginning of 1938.

Q. That was the final date for the final stage?

A. Yes, for output of 4 million tons of raw steel.

Q. And what did you produce?

A. We brought ore from the shafts and exploited such ore as we opened up. Of course, in the mining of ore the situation is different than in the mining of coal because, in the former case, the ore is produced automatically because the deposits reveal themselves consecutively. Thus we drew ore from the open mines and we were happy when we could sell something because always making nothing more than expenses is not the happiest thing in the world.

Q. What was the situation in the foundry?

A. Brassert and his staff, that is, the English and American engineers, left Germany shortly before the outbreak of the Polish campaign. It did not strike me so crudely at the time because usually over the weekend these gentlemen flew to London, or at least did so frequently; that is why it did not strike me at the time.

Q. Then Brassert did not resign and there were no quarrels theretofore?

A. No. As far as I thought, everything was in order. He called me up from London and said that he had to go to America. His doctor had suggested that he take a few days leave because he was so very tired and his nerves were in bad order.

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Q. How were you able to help yourself out in this difficult situation? Did you have enough German technicians and engineers?

A. No, not just offhand, because the well-known smelting firms were, as I have already said, closely connected with the competition; therefore, I took it up with Lorenz to create a staff of technicians at the outbreak of the war and for the course of the war. Moreover, I was afraid that my competitors would not remain inactive and on the other hand I did not wish to capitulate.

Q. Were not these exaggerated fears on your part, namely, that once the war broke out this sort of competition would persist?

A. No. After the successful Polish campaign and above all after the successful French campaign, it was hoped that the whole construction program was superfluous and it was senseless to continue building to that extent.

Q. How did you surmount this crisis for your works?

A. I was obliged to take over Brassert's task myself, and there were also the entire responsibilities for the success of this task. I was able to collect my own engineering staff under Dr. Kocksch whom I got from the Demag after lengthy negotiations. I organized this staff in a special company, as had been the case with Brassert also, so that the subordinate engineers and economists also were independent. The name of this company was the "Deutsche Bergwerks- und Huettenbau G.m.b.H." This office undertook to carry out Brassert's task, a staff of about 1,200 engineers, constructors, metallurgists, scientists, and so forth.

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Q. When was the first iron produced?

A. On 10 October 1939 because the two first ovens produced in the first 36 hours absolutely unexceptional pig iron.

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Q. How about in your own sphere of influence? Were you unrestricted?

A. My concern was the historical development of the whole combine. In engineering economics and manufacturing programs in the construction of the two plants in Watenstedt and Linz, there the limitation in the over-all area, namely, the relationship between Germany and the Ruhr, these tasks now fell upon me which had previously fallen to Brassert. Further development in the field of research also played a role, as did questions of smelting. These matters concerned me very deeply, as you can understand.

Q. Was the leadership in your field centrally located?

A. No. I had to decentralize very early. That resulted merely from the geographic location of the plants.

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CROSS-EXAMINATION

MR. SPRECHER: Now, defendant Pleiger, I will try to make my questions plain and direct and if you don't understand them please just don't answer. Just tell me you don't understand the question, and I think we will have a greater responsiveness between us.

You testified that you suggested to Hermann Goering that his name be given to the Hermann Goering Works. Did you do this in writing or orally?

DEFENDANT PLEIGER: I did it orally, as far as I remember.

Q. Do you remember who else was present?

A. No. I may have said it several times, too.

Q. Did you talk it over with Koerner, Keppler, or Kehrl before you proposed this rather unusual proposal?

A. I really can't say; certainly not with Kehrl.

Q. Was this proposal that Goering's name be given to the concern made before or after it had been decided that you were to be the first Vorstand member of the corporation?

A. I really don't remember that and if I may explain I would like to point out that all that was needed was a suggestion to Goering. There was no need for persuasive oratory to make him give his name to the works after he had found out that the first smelting specialist of the United States [Brassert] had stated that profitability was guaranteed and that it could be nothing but a major success. That is already shown by the fact that when I suggested 3 million tons output, he wanted 5 million tons.

Q. Was the name of any other high and famous Nazi leader ever given to a newly founded enterprise in the Third Reich?

A. Not that I remember. I don't think so.

Q. Now, who decided that you should be the first Vorstand member of the Hermann Goering Works?

A. Goering.

Q. Now, Prosecution Exhibit 2335* shows that the Watenstedt foundry in the Salzgitter district of the Hermann Goering Works was named the Paul Pleiger Huette upon Goering's order in 1944. Did Goering inform you of this step in naming a foundry for you before he so named it?

A. First of all, I would like to say it was not 1940.

Q. 1944, right?

A. That was done without my even suspecting, let alone knowing anything about it. It was my birthday. I was away hunting and when I came back after a week I was confronted with this accomplished fact, to my great annoyance. I would like to put that on the record.

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Q. Now, did you personally attempt to figure out in 1937 or 1938, when the Hermann Goering Works was getting under way, how much foreign exchange was being lost to Germany because of the cost involved in this very expensive project, costs which could have been used for subsidizing more efficient industries so

* Document NG-2755, Prosecution Exhibit 2335, is not reproduced herein.

that they could export more? Did you attempt to figure that out at the time?

A. Not that I remember, but we made all sorts of calculations, and looked at the matter from every point of view.

Q. Did you make any inquiries when you were looking at the matter from every point of view as to what foreign exchange was being used for in Germany before 1939?

A. I didn't understand the question.

Q. You said you looked at the foreign exchange problem from every point of view. Now, I ask you if you made inquiries as to what the purpose of the foreign exchange use was in Germany during 1937, 1938, and 1939. Did you see what it was being used for?

A. I imagine so, but I would like to point out that from my point of view, from the point of view of the national economy, we had 1 billion tons of steel lying underground, and that was gold to us. That was 3 billion in gold, calculated from the point of view of the national economy. That is how I figured out my accounts. I dealt with the financial problem in broad outline. I have already said—

Q. Dr. Pleiger, you are going on quite a lecture, in my view. If you think it is relevant, you can take it up with your counsel and go into it on redirect. I merely asked you if you made certain inquiries and now you are not talking about those inquiries in my opinion.

Now, at any time have you learned—and I mean at any time up to the present—at any time have you learned of any large new construction project of the Four Year Plan which was discontinued in 1938 or 1939 because Hitler, Goering, or others decided that that project had too small value for military economy?

A. I am sorry; I did not quite get that.

Q. Well we have seen a lot of documents about military economy and I asked you if you know at this moment, after all these years, if any Four-Year-Plan project, or construction—any substantial construction project in the Four Year Plan—which was discontinued in 1938 or 1939 because it did not have enough military value in the eyes of Hitler or Goering.

A. In a modern war everything connected with technical matters, economy and industry, is also connected with modern technical warfare—even a canning factory.

Q. I take it that your answer to my question is no, as to whether or not you know if any of these projects were discontinued; is that right? All right, if that's your answer, we will go on. I take it you do not know of any other action—any project?

A. I don't remember. I did not deal with that. I had plenty of my own worries.

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Q. Now after Germany had occupied the areas containing iron ore in Austria, Czechoslovakia, and Lorraine, to name the major ones, was there still a shortage of iron ore to meet the needs of the German war economy?

A. No.

Q. Did you cut down iron ore production by the Hermann Goering Works at that time?

A. Then we had to limit ore production to a large extent, to my very great regret.

Q. Will you repeat that?

A. Then we had to stop ore production to a very large extent, to my great regret.

Q. You mean at Salzgitter?

A. Yes. Because the more easily smelted ores were available in Lorraine.

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Q. Now, in this period between January 1941 and May 1942 were you still on good terms with Goering?

A. Well, that is relative, really. Goering was such a big man that I couldn't ask him whether he liked me. At any rate, I didn't feel well treated. Perhaps he saw the thing in a different light.

Q. Well, during that period when you said you had had some conflict with Goering, which caused you trouble, you received a number of appointments. You were appointed Chairman of the RVK in March of 1941, Reich Plenipotentiary for Coal, and Reich Plenipotentiary for Coal in the Occupied Countries in 1941 and 1942. This was all before the end of this period when you finally went back to the chairmanship of the Aufsichtsrat and were delegated to the Vorstand at Linz.* In general you would not say that your position with Goering was very bad during this period of January 1941 to May 1942, would you?

A. Well, I don't think you can term it bad or good. Of course, a great deal more work was loaded upon my shoulders and I had to work much harder but I don't think that has anything to do with whether one is on good or bad terms with a person. As I said before, I couldn't really ask him about it. Perhaps he was of the opinion that I was in a position to know about those things and deal with them. I had the knowledge and the capacity for coping with that but I didn't push myself to get all this because

* A large iron and steel works was constructed at Linz, in Austria, as a part of the Hermann Goering Works. The plans for the Linz plant had been drawn up by the previously mentioned firm of H. A. Brassert.

I am not very enthusiastic about working terribly hard, I quite like to have a comfortable life.

* * * * * * *

Q. Now, as late as 1943 didn't you inform the Party Chancellery in Munich that the Reich leadership of the Party could still rely on your steady attachment to the political economic organization of the Nazi Party?

A. I don't remember.

Q. As you now recall, would it be improbable that you made any assurances to the Party Chancellery in Munich to that effect or did you do that so often that you really don't remember a thing like that?

A. I could not imagine a reason for which I would have had to give such a statement or would have given it.

[At this point Document NID–15579, Prosecution Exhibit 3772, was marked for identification. This exhibit, a letter of the defendant Pleiger dated 19 December 1942, is reproduced earlier in this section]

* * * * * * *

Q. Do you recall that in the year 1942, you wrote a letter to one of the Gauleiter in which you told him that Hitler's book, "Mein Kampf," still showed the way for Germany in the year 1942?

A. That I do not remember.

[At this point Document NID–15578, Prosecution Exhibit 3773, was marked for identification. This exhibit, a letter of the defendant Pleiger dated 6 January 1942, is reproduced earlier in this section]

* * * * * * *

Q. Did you have any expense account insofar as your work for the Keppler Office was concerned?

A. I can't say offhand. It is possible that during the later stages I was refunded expenses but they, of course, would only have made up for a fraction of the actual costs I had. But I can't say for certain.

Q. This was a labor of love, more or less, as far as you were concerned. An honorary position in which you gave 4 days of your week, on the average, to the Keppler Office, is that correct?

(Witness nods head)

Q. You nod, but that doesn't come on the record. Is that right?

A. Yes. That is correct.

Q. What was your highest personal income before 1933? The highest annual personal income?

A. I don't remember.

Q. Was it over 50,000 reichsmarks per year?

A. No, definitely not.

Q. Now, after 1937 you made 120,000 reichsmarks per annum as a salary from the Goering Works, is that right?

A. Yes.

Q. And you also had a percentage in the total profits of the concern?

A. No. That is not correct. I only had a certain bonus which had been fixed but it was not a percentage of the profits.

Q. What was the bonus based on?

A. That was to make up for the difference in my salary compared with that of my colleagues in the heavy industry which was higher by 50 percent or more. I may state here that colleagues of mine in the concern were general managers who had a higher income by way of salary than I had.

JUDGE MAGUIRE, PRESIDING: Now Witness, answer the question. On what was the bonus calculated? What was the basis of it?

DEFENDANT PLEIGER: Well, perhaps I didn't get the question quite correctly. The basis of that bonus was to balance or to make up between the salary and the actual efficiency rating, because the actual salary was only 50,000 reichsmarks and the efficiency rating had to be laid down by Goering. It is actual usage in Germany to pay such bonuses.

* * * * * * *

MR. SPRECHER: You testified that in 1939 you hoped that war would not break out. Now, when German troops occupied Czechoslovakia in March 1939, did you personally agree with that use of military force in connection with Hitler's foreign policy?

DEFENDANT PLEIGER: I don't think I ever spent a thought on that. Being an engineer and an economist I didn't spend any thought on what a politician might consider right or wrong because what I know now I didn't know then. I couldn't even imagine anything like that.

Q. Well, this use of force in a little while had some effect upon the scope and size of the Hermann Goering Works. Didn't you think about that after a while?

A. Yes. But I didn't worry about it. Perhaps it was a big mistake. But there it is.

Q. Did you feel any concern about supporting the Nazi regime after German troops had extended the so-called "Lebensraum"—living space—by military action, in both Austria and Czechoslovakia? Did that give you any concern?

A. I don't think I understood that question.

Q. Did you feel any concern in staying a part of the Nazi regime after German troops had extended the so-called living space or "Lebensraum" by military action in both Austria and Czechoslovakia?

A. I was concerned with the foundries and the other plants I had to look after. But the war was carried on by the soldiers and it was caused by the politicians.

Q. Well, in your own mind at the time did you condone the use of military force by Germany as long as Germany got away with it without causing actual war?

A. I really never concerned myself with politics. I am a technician and I am an economist and I don't really think I ever spent a thought on it.

Q. And when it came to the invasion of Poland on 1 September 1939, did you or did you not feel that Hitler had done any wrong against peace and world order by that invasion?

A. I was just as suprised at this invasion as anybody else and I was shocked because personally and professionally it concerned me very much. I had known war during 1914 and 1918 and it's obvious that I wasn't enthusiastic about it but I didn't even suspect or know what I know now. Nobody discussed those matters with me. I had to depend on what I could read in the newspapers and hear over the radio.

Q. Now, you still made some trips into the occupied countries. I will withdraw that for the time being. Now, at any time before you were appointed to the Vorstand of the Hermann Goering Works in the year 1937, did you express any opposition to any of the points of the Nazi Party program?

A. I never concerned myself with the ideological aspects of the Party because I cannot produce steel with a philosophy and that was my point of view. I only concerned myself with economic and technical questions. But all this religious stuff and politics and racial questions, I never concerned myself with at all.

Q. Did you maintain a feeling of devotion and loyalty to Hermann Goering until the bitter end?

A. I had no reason to tell Goering that I considered him a criminal, no matter what one might think of Goering. Neither did I ever have an opportunity to cease being loyal to him. I had my plants to look after and that was all I could do.

Q. Well, did you think any of his conduct was criminal so that you might want to talk to him about it if you had the opportunity?

A. No. I didn't say that.

Q. Did you do anything during the Nazi regime that you considered disloyal to Goering?

A. First of all I would have been careful not to do so. Secondly I had no reason to do it, and thirdly I never said I had.

Q. I guess that covers it. In 1942 Goering appointed you Staatsrat—State Councillor. Now, were you the youngest State Councillor appointed up to that time?

A. That I don't know. Because I don't know who else was a Staatsrat. There never was a meeting [of the Staatsrat-State Council] so I don't know those gentlemen.

Q. Well, at that time did you remember pledging unshakeable loyalty to Goering after he had given you this award?

A. I should imagine that I wrote him a very courteous letter, but I wouldn't have drafted it myself. Somebody else would have done so.

Q. Did you always let someone draft your letters to Goering?

JUDGE MAGUIRE, PRESIDING: All right. Let's proceed.

MR. SPRECHER: I am marking NID–15576 as Prosecution Exhibit 3774* for identification.

Do you recognize that as a letter signed with Paul Pleiger's "P"?

DEFENDANT PLEIGER: That is a letter with my "P", and I wrote the letter too.

Q. To Goering?

A. And it is addressed to Goering, addressed to the Reich Marshal of the Greater German Reich.

Q. Now, did you ever disobey any orders of the officials of the Third Reich, Mr. Pleiger?

A. Well, perhaps we had better say that I was never found out.

Q. Well, you did disobey some orders then?

A. Well, I think it did happen to everybody, that they did not fulfill any definite order because they may not have known about it, but I couldn't say that I consciously disobeyed any.

Q. Didn't you testify in the Krupp case that you did refuse the orders to destroy certain plants in Lorraine?

A. What I said in the Krupp case—and I would like to make that quite clear here—is that towards the end of the war the scorched earth order became known to me and that I myself experienced the conditions in Russia. I thereupon went to Speer and told him that that was a crime and it would be a crime if we carried out the same sort of policy when whole towns were sacked and if the Germans were to blast and blow up plants. Well, that was the first time I did break my oath consciously.

Q. Now, in other words you broke your oath when you didn't think it was right to follow your oath, is that right?

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* This letter by defendant Pleiger, dated 19 December 1942, is reproduced earlier in this section.

A. No. I didn't say that. What I said was that at that time I recognized where we would be driving to.

* * * * * * *

C. The Invasion and Annexation of Austria

TRANSLATION OF DOCUMENT 812-PS (PARTLY IN EVIDENCE AS) PROSECUTION EXHIBIT 15[1]

LETTER OF GAULEITER RAINER TO REICH MINISTER SEYSS-INQUART, 22 AUGUST 1939, TRANSMITTING COPIES OF RAINER'S LETTER AND RAINER'S REPORT OF 6 JULY 1939 ON THE BACKGROUND OF THE NAZI SEIZURE OF POWER IN AUSTRIA AND THE GERMAN OCCUPATION OF AUSTRIA

[Seal]
The Gauleiter

Salzburg, 22 August 1939
Chiemseehof

Personal!
Only direct delivery!

To the Reich Minister Dr. Arthur Seyss-Inquart[2]

Vienna I, Ballhausplatz 2

Dear Dr. Seyss:

I have received your letter of 19 August 1939, in which you asked me to inform you what I know of those matters, which among others, are the subject of your correspondence with Buerckel.

I do not wish to discuss sundry talks and all that which has been brought to my notice in the course of time by different people. I wish to clarify essentially my own attitude.

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[1] Document 812-PS was introduced in its entirety in the IMT trial as Exhibit USA-61 and the entire German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXVI, pages 344-359. Document 812-PS included three contemporaneous documents, a letter of 22 August 1939 from Gauleiter Rainer to Reich Minister Seyss-Inquart, a letter of 6 July 1939 from Rainer to Reich Commissioner Buerckel, and a report of 6 July 1939 from Rainer to Buerckel. The Rainer letter to Seyss-Inquart contained copies of the earlier letter, and of the earlier report. In the Ministries case, the prosecution only introduced Rainer's report of 6 July 1939. However, under Article IX of Military Government Ordinance No. 7 the Tribunal was authorized to take judicial notice of the record of the trial before the International Military Tribunal, and in the interest of clarity the Rainer letters to Seyss-Inquart and to Buerckel have also been reproduced here.

[2] Seyss-Inquart, frequently referred to as "Seyss", was made Reich Governor of Austria just after the German occupation of Austria in March 1938. He was sentenced to death in the trial before the IMT. Concerning the role of Seyss-Inquart in Austria before the German occupation, the IMT stated: "Seyss-Inquart, an Austrian attorney, was appointed State Councillor in Austria in May 1937 as a result of German pressure. He had been associated with the Austrian Nazi Party since 1931 but had often had difficulties with that Party and did not actually join the Nazi Party until 13 March 1938. He was appointed Austrian Minister of Security and Interior with control over the police, pursuant to one of the conditions which Hitler had imposed on Schuschnigg in the Berchtesgaden Conference of 12 February 1938.

Activities in Austria

Seyss-Inquart participated in the last stages of the Nazi intrigue which preceded the German occupation of Austria, and was made Chancellor of Austria as a result of German threats of invasion. On 12 March 1938 Seyss-Inquart met Hitler at Linz and made a speech welcoming the German forces and advocating the reunion of Germany and Austria. On 13 March he obtained the passage of a law providing that Austria should become a province of Germany and succeeded Miklas as President of Austria when Miklas resigned rather than sign the law. Seyss-Inquart's title was changed to Reich Governor of Austria on 15 March 1938 and on the same day he was given the title of a general in the SS." (See Trial of the Major War Criminals, *op. cit.*, vol. I, pp. 327-328.)

On 5 July 1939 I was asked by telephone by the Reich Commissioner Gau Leader Buerckel if I was in possession of the memorandum of Globus* regarding the events of March. I told him that I do not have this memorandum and that I never possessed a single part of it, that I furthermore did not then participate in the matter and do not know its content. Because of official requests by Buerckel I have entrusted him with a report accompanied by a letter written on 6 July.

If Buerckel now writes to you that certain statements were confirmed by me, I feel obliged to entrust you with a copy each of my copies of those two documents, which were only written in single original [einziger Urschrift]. I shall specially inform Buerckel of this. I add to this the explanation that I have given—apart from those written explanations—no confirmations, declarations, or criticisms whatsoever regarding you and your attitude and that I have authorized nobody to refer to any statements of mine.

Since the beginning of our collaboration I have always expressed and represented forcefully my ideas regarding yourself and my opinion of your personality. This conception of mine was the very basis of our collaboration. The events of February and March have not changed this, especially since I considered the political success of 11 March merely as a confirmation of the intentions and convictions which have equally induced both of us to collaborate.

As far as Globus is concerned you are fully aware of his species which I judged always and in every situation only by its good side. I believe that you already talked to Globus about the occurrences between 11 March 1938 and today; and I am convinced that he will tell you everything that is bothering him, if you will speak to him about this matter, as is your intention.

With the best regards and

Heil Hitler!

Yours

2 enclosures.

[Signed] FRIEDL RAINER

Copy

Salzburg, 6 July 1939

To the Reich Commissioner Gauleiter Josef Buerckel

Vienna I

Parliament

Dear Party Member Buerckel!

Soon after taking over in Austria, Klausner, Globocnik, and I flew to Berlin to report to Hitler's deputy, Hess, about the events which led to our taking over the government. We did this because we had the impression that the general opinion, perhaps also Hitler's own, was that the liberation depended more on Austrian matters of state than on the party. To be more exact, Hitler especially mentioned Dr. Seyss-Inquart alone; and public opinion gave him alone credit for the change and thus believed him to have played the sole leading role.

This conception does not, however, correspond to the true proportions of powers and to the conditions of leadership which were completely clear until 12 March 1938. At that time I gave a short report in Klausner's behalf to the deputy of Hitler and also submitted a short summary of the developments since 1934. I made not a single copy of this. I did not take part in further actions of this kind since they seemed to me to be too much connected with

* A code name or nickname for Odilio Globocnik, one of the leaders of the Nazi Party in Austria, whose name comes up often in the following contemporaneous documents.

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personal feelings. I think the main reasons for the fact that the person of Dr. Seyss-Inquart seemed to Hitler and to public opinion to have stepped in the limelight in those March days, was that no position existed in the party from which one might have presented oneself to the public; and that there was no man who had the guts to let himself be presented. The real reason was that the Party leadership had to remain secret during the whole illegal fight, secret from the Reich German public. He who wanted to direct correctly the political battle of the Austrian nazism had to forego public fame. Leopold[1] did not want to forego that and made such decisive political mistakes that his recall became necessary. Klausner, himself, never longed for fame and was therefore not suitable to appear gloriously after the taking over of power. The two powers behind Klausner—I consider the dynamic part of Globocnik and the political part of myself—were bound from the beginning, as collaborators of Klausner, to put him to the fore.

We saw in March and April how a false picture about the actual leadership conditions developed from this fact which could not be corrected in spite of our attempts to that effect. This was an important factor for the varying moods of Globocnik who hoped especially from you that you would emphasize to Hitler and also to the public the role the Party played during the events preceding 12 March 1938. I limited myself to address this verbal and written declaration to Party member Hess and furthermore to secure the documents from the March days. In addition, I spoke at every available opportunity about the fight of the Party.[2] I did not undertake steps to give just credit to other persons for the glory which was excessively ascribed to one person, Dr. Seyss-Inquart; and I would not do that, primarily because I appear a beneficiary, and furthermore because I believe that I would not gladden Hitler by doing so. I am convinced that Dr. Seyss-Inquart did not act incorrectly and furthermore that Hitler does not want to commit an act of historical justice by special preference of his person but that he is attracted to him personally. It really is of no great account to Hitler if this or that person was more or less meritorious in this sector of the great fight of the movement. Because, in the last analysis, by far the greatest part is to be ascribed only to him; he alone will be considered by history as the liberator of Austria. I, therefore, considered it best to accept existing conditions and look for new fertile fields of endeavor in the Party.

If I should be asked to describe—without personal interest—the role of the Party according to my best conviction, I am ready to do so at any time. For this reason I promised yesterday to submit to you again a short summary, and to make it available for your confidential use. Of this letter and of this abbreviated description I retain the sole copy.

Heil Hitler!

RAINER e.h.[3]

1 Enclosure

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[1] Captain Leopold was State Leader [Landesleiter] of the Nazi Party in Austria and nominally the highest Nazi Party official in Austria.

[2] See the extracts from a later speech of Rainer at Klagenfurt on 11 March 1942, Document 4005-PS, Prosecution Exhibit 32, reproduced in part as the second document in this section.

[3] "e.h.," the abbreviation for "eigenhaendig" means that the original was signed in Rainer's own handwriting.

Copy

Report on the events in the NSDAP in Austria since the beginning of the last stage of battle until the seizure of power on 11 March 1938

In 1933 the Party fought a parliamentary battle. Through the seizure of power in the Reich it gained considerably in numbers. It started to try to enforce new elections in order to gain admission into the government. By these means it should have taken over the government. The enemies recognized this fact and the Dollfuss government proceeded, while tolerating the Reds, to force the NSDAP from its legal plane in order to render it innocuous. In this the government used legal tricks, thereby practically doing away progressively with the democratic constitution. The first attempts of the government were answered by the Party with an increase of pressure; and the government's breaches of the constitution were answered by arbitrary acts with the assumption that it might thus be able to overthrow the government. This assumption was wrong. At that time the government had the backing of all anti-German foreign countries, and it felt sufficiently strong to prohibit the NSDAP and profession of adherence to the NSDAP, and subsequently to treat as high treason the profession in favor of the Anschluss.

Thus the first stage of battle commenced which ended with the July uprising [Erhebung] of 1934.* The decision for the July uprising was right, the execution of it was faulty. The result was a complete destruction of the organization; the loss of entire groups of fighters through imprisonment or flight into the Old Reich [Altreich]; and with regard to the political relationship of Germany to Austria, a formal acknowledgment of the existence of the Austrian State by the German Government. With the telegram to Papen, instructing him to reinstitute normal relationships between the two states, the Fuehrer had liquidated the first stage of the battle; and a new method of political penetration was to begin. By order of the Fuehrer the Landesleitung Munich was dissolved, and the Party in Austria was left to its own resources.

There was no acknowledged leader for the entire Party in Austria. New leaderships were forming in the nine Gaue. The process was again and again interrupted by the interference of the police. There was no liaison between the formations, and frequently there were two, three or more rival leaderships. The first evident, acknowledged speaker of almost all the Gaue in Autumn 1934 was engineer Reinthaller (also appointed Landes-

* On 25 July 1934 an armed group of National Socialists seized the chancellery in Vienna and assassinated Dollfuss, the Austrian Federal Chancellor.

bauernfuehrer [State Peasant Leader] by Hess). He endeavored to bring about a political appeasement by negotiations with the government, with the purpose of giving the NSDAP legal status again, thus permitting its political activities. Simultaneously Reinthaller started the reconstruction of the illegal political organization, at the head of which he had placed engineer Neubacher. The first attempt to create a legal political organization which was to negotiate with the government while a secret illegal organization existed did not succeed. It brought about quarrels in almost all Gaue and ended with pressure of the illegal branch against the policy of appeasement of Reinthaller and with the latter's retirement as Landesleiter. The successor, Neubacher, head of the illegal organization, was not recognized by all the Gaue because meanwhile the former Gauleiter of Lower Austria, Captain Leopold, was released from prison and he claimed the country leadership because of his seniority in the Party. In Carinthia at about that time, Klausner with his collaborators Globocnik, Rainer, Longhin, and Pawlowski had reconstructed and readied the Gau Carinthia. The Gau Carinthia kept away from the quarrels of the leaders and arbitrated the differences between Leopold and Neubacher and finally effected a solution in such a way that Neubacher and his adherents recognized Leopold as the State Leader; and Leopold appointed Neubacher to be his deputy. The points of friction between those two groups were not yet eliminated. Those differences did not remain concealed from the police. The police got hold of a polemic by the group of Leopold against the group of Neubacher and on the strength of this material, they arrested Leopold and Neubacher.

At that time the success of the calm attitude of the Gau Carinthia was crowned by the fact that after these arrests the representatives of all the Gaue came to Carinthia to offer Klausner the State Leadership. By order of Klausner, Dr. Rainer reported at these conferences the political referendum and developed the political conception as adopted by the Gau Carinthia on the basis of which, as a matter of fact, an agreement was reached. In July 1935 Klausner became the head of the movement without, however, adopting the title of State Leader because he considered it wrong as long as the State Leader Leopold was imprisoned but he looked upon himself as the speaker of the college of Gauleiter [Gauleiterkollegium]. With the consent of the representatives of all the Gaue, Klausner at that time appointed Globocnik as co-worker for the organizational part, and Rainer as co-worker for the political part of his task. In August some further arrests took place, the victims of which were, apart from the Gauleiter, also Globocnik and Rainer. Schattenfroh then claimed because of an instruction

received from the imprisoned Leopold, to have been made deputy country leader. A group led by engineer Raffelsberger had at this time also established connections with departments of the Altreich (Ministry of Propaganda, Office for Repatriation of Ethnic Germans [Volksdeutsche Mittelstelle],[1] etc.) and made an attempt to formulate a political motto in the form of a program for the fighting movement of Austria. In the spring of 1936 Schattenfroh was arrested. He had named Party member Hinterleitner as his successor as Acting Land Leader [geschaeftsfuehrender Landesleiter]. In March Klausner was arrested in connection with the arrest of about 60 leading Nazis, whereas Dr. Rainer was released. Hinterleitner again followed those directives which were set down at the conferences at Carinthia in the spring of 1935. And in May 1936 he appointed Rainer, Globocnik, and engineer Hiedler to the state leadership in the following spheres of influence:

Rainer to be chief of the political staff; Hiedler as chief of the organization; and Globocnik as liaison officer with the Reich and as organizer of all the auxiliary bases outside of Austria.

The principles of the reconstruction were: The organization is the bearer of the illegal fight and the trustee of the idea to create a secret organization, in a simple manner and without compromise, according to the principle of organizing an elite to be available to the illegal local Party leadership upon any emergency. Besides this, all political opportunities should be taken and all legal people and legal chances should be used without revealing any ties with the illegal organization. Therefore, cooperation between the illegal Party organization and the legal political aides was anchored at the top of the Party leadership. All connections with the Party in Germany were kept secret in accordance with the orders of the Fuehrer. These said that the German State should officially be omitted from the creation of an Austrian NSDAP; and that auxiliary centers for propaganda, press, refugees, welfare, etc. should be established in the foreign countries bordering Austria.

Hinterleitner had already contacted the lawyer Seyss-Inquart, who had connections with Dr. Waechter[2] which originated from Seyss-Inquart's support of the July uprising. On the other hand Seyss-Inquart had a good position in the legal field and especially well-established relations with Christian-Social politicians. Dr. Seyss-Inquart came from the ranks of the Styrian Heimatschutz [Home Guard] and became a Party member when the entire Styrian Heimatschutz was incorporated into the NSDAP. An-

[1] The chief of this agency, abbreviated "VoMi" was Werner Lorenz, a defendant in the RuSHA Case, United States *vs.* Ulrich Greifelt, et al., case 8, volumes IV and V, this series.

[2] Baron Gustav von Waechter, one of the leaders of the Nazi Putsch against Dollfuss.

other personality who had a good position in the legal field was Colonel Glaise-Horstenau[1] who had contacts with both sides. The agreement of 11 July 1936 was strongly influenced by the activities of these two persons. Papen mentioned Glaise-Horstenau to the Fuehrer as being a trusted person.

At that time the Fuehrer wished to see the leaders of the Party in Austria in order to tell them his opinion on what Austrian National Socialists should do. Meanwhile Hinterleitner was arrested and Dr. Rainer became his successor and Acting Leader of the Austrian party. On 16 July 1936 Dr. Rainer and Globocnik visited the Fuehrer at the Obersalzberg where they received a clear explanation of the situation and wishes of the Fuehrer. On 17 July 1936 all illegal Gauleiter [illegalen Gauleiter] met in Anif near Salzburg, where they received a complete report from Rainer on the statement of the Fuehrer and his political instructions for carrying out the fight. At the same conference the Gauleiter received instructions concerning the organization from Globocnik and Hiedler.

On 23 July Leopold was released under the general amnesty. Even during the time of his imprisonment his rank was recognized by everybody, starting with Klausner through Schattenfroh, Hiedler, and Dr. Rainer. Consequently, Dr. Rainer turned the Party Leadership over to Captain Leopold on 31 July. Leopold recognized the issued orders for policy and organization and confirmed the offices of the three men Rainer, Globocnik, and Hiedler. Soon after, a new series of internal disagreements started again, since Leopold as illegal State Leader [illegaler Landesfuehrer] tried to get into direct connection with the representatives of the system [System] and to wind up a line of legal appeasement actions [legale Befriedigungsaktionen]. This lead to the demonstrative resignation of Klausner as Gauleiter of Carinthia, whose ideas were in sharp contrast to those tactics and to the shelfing of Rainer and Globocnik who, informed by the Fuehrer's directives, knew that Leopold's tactics were wrong and had tried to change his mind. A new danger of a party split arose again which had to be avoided. Dr. Rainer with the help of Dr. Jury[2] arranged this. As a result of Leopold's mistaken policy the Party leadership became more and more meaningless, while the offices of the

[1] Edmund von Glaise-Horstenau, sometimes referred to in the contemporaneous documents merely as Glaise, was appointed Minister without Portfolio in the Austrian cabinet on 11 July 1936 as guarantor of German-Austrian Agreement of 1936. Later he became Minister of the Interior and shortly before the Anschluss he became Vice Chancellor. He was interned as a suspected war criminal after the German collapse in 1945. He committed suicide in 1946 at Langwasser Internment Camp near Nuernberg.

[2] Dr. Hugo Jury, after the German occupation of Austria, became Reich Governor and Gauleiter of Gau Lower Danube and obtained the rank of Lieutenant General in the SS (Obergruppenfuehrer SS).

Reich took up liaison more and more with Seyss [Seyss-Inquart] and Glaise [Glaise-Horstenau] and those men in the Party who were in the legal [legalen] field.

Upon the proposal of Globocnik, the Fuehrer named SS Major General Keppler as chief of the mixed commission which was appointed, in accordance with the state treaty [between Austria and Germany] of 11 July 1936, to supervise the correct execution of the agreement. At the same time Keppler was given full authority [Vollmachten] by the Fuehrer for the Party in Austria. After Keppler was unsuccessful in his efforts to cooperate with Leopold, he worked together with Dr. Rainer, Globocnik, Reinthaller as leader of the [Nazi] peasantry, Kaltenbrunner as leader of the [Austrian] SS, Dr. Jury as deputy state leader [stellvertretender Landesleiter] as well as Glaise and Seyss. Regarding internal conditions, it was clear that full recognition of the Party leadership was given by Dr. Seyss. Dr. Seyss was also in permanent contact with Captain Leopold and there were never any serious conflicts between them. But he also acknowledged the correctness of Dr. Rainer's political interpretations and the actual leadership of Dr. Rainer in all political actions. The situation was much the same with Glaise who was wholeheartedly for Rainer and Globocnik but always carefully guarded the legal Party position of Leopold.

Due to the cooperation of the above-mentioned people with SS Major General Keppler and other officials of the Reich and due to the activities of other covered contact-men in Austria, it was possible to obtain the appointment of Dr. Seyss as Staatsrat [State Counsellor] in July 1937. Due to the same facts, Chancellor Dr. Schuschnigg was forced to take a new so-called pacification action. Through all this a new and stronger political position was won in the Austrian system. The National Socialist Party became acceptable again in the political field and became a partner with whom one had to negotiate, even when it was not officially incorporated into internal Austrian political developments [inneroesterreichischen Entwicklung]. This complicated political maneuver, accompanied by the steadily increasing pressure from the Reich, led to the talks between the Fuehrer and Schuschnigg at the Obersalzberg. Here SS Major General Keppler presented the concrete political demands of the fighting underground movement, which he estimated according to his personal experiences and the information he received. The result of these talks was the right of a free acknowledgment of the National Socialist movement on the one hand and the recognition of an independent Austrian State on the other hand, as well as the appointment of Seyss-Inquart as Minister of the Interior and

Security, as the person who would guarantee to both sides the proper carrying out of the agreements. In this way, Seyss acquired the key position and had stepped into the center of all visible political actions. Therewith legal support in the government was won for the party. This would result in a paralysis of the "system" [system-apparates] when a revolution needed to be carried out. Through this, the basis for a new attack on the Schuschnigg government was won.

Another result of the agreement was the appointment by the Fuehrer of Leopold as a member of the staff of Hess, and after a long personal talk with Klausner, the Fuehrer appointed him as leader of the Austrian National Socialists upon recommendation of Keppler [ueber Vorschlag Kepplers]. Therewith a Party split was prevented and once again, as in 1935–36, unity in Party policy existed. Klausner restored immediately the clear organizational structure of the Party as it had been in 1935–36 and so was able to make immediately those changes which had become necessary, due to the Berchtesgaden agreement and the continuation of a very complicated inner political fight, supported by the unlimited confidence of the whole Party. The relationship between Seyss-Inquart and Klausner was as follows: Seyss-Inquart acknowledged unconditionally the Party Leadership and actions taken by it; and he also acknowledged Klausner as the leader of the Party. As a Party member he was under the command of Klausner and received orders from him. But as a result of the agreement at Berchtesgaden and the statement the Fuehrer made to him during his state visit in Berlin, Seyss-Inquart was the personal trustee of the Fuehrer and directly responsible to him for the illegal NSDAP in Austria within the confines of the political sphere. Seyss-Inquart also expressly acknowledged the right of political initiative by the State Leadership [of the Austrian Nazi Party].

Schuschnigg personally was convinced as the result of Berchtesgaden that the development lead to an irrepressible and clear National Socialist solution. He tried to use the big demonstrations in the Austrian Land [state] capitals to undermine the position of Dr. Seyss or to discredit him in the eyes of the Reich officials. The existing situation was not simple but ended by Schuschnigg coming to the conviction that it was impossible to achieve a break between the marching SA men and the political leaders of the Party. Out of these and other thoughts the resolution originated to get out of the situation forcibly accepted [by Schuschnigg] at Berchtesgaden by a plebiscite and to achieve a complete new orientation in respect to foreign and domestic policies in the direction West-democracy-marxism.

The Party leadership received word about the planned plebiscite through the illegal information service on 9 March 1938 at 10 a.m. At the session which was called immediately afterwards, Seyss-Inquart explained that he had known about this for only a few hours but that he could not talk about it because he had given his word of honor to keep silent on this subject. But during the talks he made us understand that the illegal information we received was based on truth and that in view of the new situation, he had been cooperating with the local Party leadership from the very first moment. Klausner, Jury, Rainer, Globocnik, and Seyss-Inquart were present at the first talks which were held at 10 a.m. There it was decided that first, the Fuehrer had to be informed immediately; second, the opportunity for the Fuehrer to intervene must be given to him by way of an official declaration made by Minister Seyss-Inquart to Schuschnigg; and third, Seyss-Inquart must negotiate with the [Austrian] government until clear instructions and orders were received from the Fuehrer. Seyss-Inquart and Rainer together composed a letter to Schuschnigg and the only copy of it was brought to the Fuehrer by Globocnik, who flew to him on the afternoon of 9 March 1938.

The State Leadership called all Gauleiter and unit leaders [Formationsfuehrer] to Vienna for a meeting on 10 March. At midnight from 9 to 10 March, Rainer sent word through to the whole Party that the plebiscite is to be regarded as a breach of the [Berchtesgaden] agreement and that it was to be rejected by the Party as a fraud. The Party was asked to keep cool, to forward the parole of strict rejection and to wait for instructions concerning the Sunday of the plebiscite. Negotiations with the government did not produce any useful results and were therefore stopped by Seyss-Inquart on the afternoon of the tenth, in accordance with instructions that were forwarded to him by SS Major General Keppler from the Fuehrer. Already on 10 March, preparations for future revolutionary actions [revolutionaere Aktionen] were made by the State Leadership and the necessary orders given to all unit leaders and the preparations for propaganda and the press were already finished. During the night of 10 to 11 March, Globocnik returned from the Fuehrer with the announcement that the Party was granted freedom of action on Friday, and that the Fuehrer would back anything the Party did. Rainer then gave the Gauleiter their final instructions and explained the three possible situations, which might develop on Friday, 11 March:

First case—Withdrawal of the plebiscite; in that case it was ordered to stage demonstrations on largest scale.

Second case—Schuschnigg would resign. In this case, dem-

onstrations which would develop into taking over the government power were ordered.

Third case—Schuschnigg would take up the fight. In this case, all Party leaders were ordered to act upon their own initiative, using all means to capture the position of power.

Dr. Seyss-Inquart took part in these talks with the Gauleiter.

On Friday, 11 March, Minister Glaise-Horstenau arrived in Vienna after a visit with the Fuehrer. After talks with Seyss-Inquart he went to see the Chancellor. At 11:30 a.m. the local Party leadership had a meeting at which Klausner, Rainer, Globocnik, Jury, Seyss, Glaise-Horstenau, Fischboeck,[1] and Muehlmann[2] participated. Dr. Seyss reported on his talks with Dr. Schuschnigg which had ended in a rejection of the proposal of the two ministers. Upon suggestion by Rainer, Klausner now ordered that the government be served an ultimatum signed by the legal political leaders [legalen politischen Vormaennern], that is the two ministers as well as the State Counsellors Fischboeck and Jury, deadline 1400 hours: cancellation of the plebiscite and setting of a date for a constitutional free and secret plebiscite within 3 weeks. On the basis of written evidence that Glaise-Horstenau had brought with him, a leaflet addressed to the National Socialist population of Austria, to be printed in millions of copies, and a telegram to the Fuehrer calling for help were prepared.

Klausner placed the leadership of the final political fighting actions [politische Kampfaktion] in the hands of Rainer and Globocnik. Schuschnigg called a session of all ministers for 2:00 p.m. Rainer agreed with Seyss-Inquart that Rainer would send the telegram to the Fuehrer and the statement to the population at 3:00 p.m. and at the same time he would start all necessary actions to take over power unless he received news from the session of the ministers' council before that time. During this time all measures had been prepared. At 2:30, Seyss phoned Rainer and informed him Schuschnigg had been unable to take the pressure and had recalled the plebiscite but that he had refused to call a new plebiscite and had ordered the strongest police measures for maintaining order. Rainer asked whether the two ministers had resigned and Seyss-Inquart answered "No." Rainer informed the Reich Chancellery through the German Embassy and received an answer from Goering through the same channels that the Fuehrer would not consent to partial solutions and that

[1] Dr. Hans Fischboeck, official in several Austrian banks; later became Reich Commissioner for Price Administration. He also was Commissioner General for Finance and Economic Affairs in Seyss-Inquart's administration in Occupied Netherlands.

[2] Dr. Cajetan Muehlmann, Austrian Nazi Party leader, who from October 1939 to September 1943 was "Special Commissioner for the Safeguarding of Art Treasures" in the Government General.

Schuschnigg must resign. Seyss-Inquart was informed of this by Globocnik and Muehlmann; talks took place between Seyss-Inquart and Schuschnigg; Schuschnigg resigned. Seyss-Inquart asked Rainer what measures the Party wished to be taken. Rainer's answer: Reestablishment of the government by Seyss-Inquart, legalization of the Party, and calling up of the SS and SA as auxiliaries to the police force. Seyss promised to have these measures carried out but very soon the announcement followed that everything might be threatened by the resistance of Miklas. Meanwhile word arrived from the German Embassy that the Fuehrer expected the establishment of a government under Seyss-Inquart with a national majority, the legalization of the Party, and permission for the Legion[1] to return, all within the specified time of 7:30 p.m.; otherwise, German troops would cross the border at 8:00 p.m. At 5:00 p.m., Rainer and Globocnik, accompanied by Muehlmann, went to the Chancellor's office to carry out this errand. Situation: Miklas negotiated with Ender[2] for the creation of a government which included Blacks [Christian Socialists], Reds [Social Democrats], and National Socialists and proposed the post of Vice Chancellor to Seyss-Inquart. The latter rejected it and told Rainer that he was not able to negotiate by himself because he was personally involved, and therefore a weak and unpleasant political situation might result. Rainer negotiated with Zernatto.[3] Kabinettsdirektor [Chief of Federal Chancery] Huber, Guido Schmidt, Glaise-Horstenau, Legation Counsellor Stein, [German] Military Attaché, General Muff, and SS Major General Keppler, who had arrived in the meantime, were also negotiating. At 7:00 p.m. Seyss-Inquart entered the negotiations again. Situation at 7:30 p.m.—Stubborn refusal of Miklas to appoint Seyss-Inquart as Chancellor; appeal to the world in case of a German invasion.

SS Major General Keppler explained that the Fuehrer did not yet have an urgent reason for the invasion [unmittelbare Anlass zum Einmarsch], which must first be created. The situation in Vienna and in the country [was] most dangerous. It was feared that street fights will break out any moment because Rainer ordered the entire Party to demonstrate at 3 o'clock. Rainer proposed surrounding and seizing the Federal Chancery in order to force the downfall of the government and formation of a new one. The proposal was rejected by Keppler but was carried out

[1] Reference is to the Oesterreichische Legion (Austrian Legion), an organization composed of Austrian Nazis who had fled from Austria to Germany after the Nazi Party was prohibited in Austria.

[2] Otto Ender, Christian Socialist, Austrian Chancellor, 3 December 1930–11 May 1931.

[3] Guido Zernatto, Secretary General of the Austrian Fatherland Front and State Secretary for special duties in the Federal Chancellery, 14 May 1936; Minister without Portfolio, 15 February 1938.

by Rainer after he discussed it with Globocnik. After 8:00 p.m., the SA and SS marched in and occupied the government buildings and all important positions in the city of Vienna. At 8:30 p.m. Rainer, with the approval of Klausner, ordered all Gauleiter of Austria to take over power in all eight Gaue of Austria, with the help of the SS and SA and with instructions that all government representatives who try to resist should be told that this action was taken on order of Chancellor Seyss-Inquart.

With this the revolution broke out and this resulted in the complete occupation of Austria within 3 hours and the taking over of all important posts by the Party. Upon Rainer's return at 2200 hours, the state of the negotiations was unchanged. Under the pressure of the surrounding of the Chancellery and occupation by 40 SS-men and the now arriving news, concerning the taking over of power by the NSDAP in the rest of the country, Miklas' resistance breaks, though only after long hours of negotiations between Seyss, Miklas, and Schuschnigg succeeds the formation of a government under Seyss-Inquart as Chancellor.

The seizure of power was the work of the Party supported by the Fuehrer's threat of invasion [Einmarschdrohung] and the legal standing of Seyss-Inquart in the government. The resulting governmental change in the form of the taking over of the government by Seyss-Inquart was due to the actual seizure of power by the Party on one hand and the political efficiency [politischen Leistungen] of Dr. Seyss-Inquart in his territory on the other; but both factors may be considered only in relation to the Fuehrer's decision on 9 March 1938 to solve the Austrian problem under any circumstances and the orders consequently issued by the Fuehrer.

6 July 1939

[Signed] RAINER e.h.

PARTIAL TRANSLATION OF DOCUMENT 4005-PS
PROSECUTION EXHIBIT 32

EXTRACTS FROM A SPEECH BY GAULEITER RAINER AT KLAGENFURT, 11 MARCH 1942, CONCERNING NATIONAL SOCIALISM IN AUSTRIA FROM 1934 TO THE NAZI SEIZURE OF POWER IN MARCH 1938*

NATIONAL SOCIALISM IN AUSTRIA FROM THE JULY REBELLION IN 1934 TO THE SEIZURE OF POWER ON 11 MARCH 1938. SPEECH BY GAULEITER DR. FRIEDRICH RAINER MADE ON 11 MARCH 1942 IN KLAGENFURT BEFORE THE LEADERSHIP CORPS AND THOSE BEARING HONOR INSIGNIA [EHRENZEICHEN] AND BLOOD ORDER [BLUTORDEN] IN THE GAU CARINTHIA

My Party Comrades!

The 11th of March will always be for us a day to remember.

* * * * * * *

We had the following political attitude: The Glaise-Horstenau Ministry was designated to function as appeasing Ministry [Befriedigungsministerium]. Negotiations were under way between the German Reich and Austria with regard to the press system and the exchange of books.

Within the Party, internal disagreements started again within a short time. Differences of opinion about the agreement [German-Austrian Agreement of 11 July 1936] soon appeared again. That led to the fact that Captain Leopold began to represent a different attitude from that of us three Carinthia representatives. Leopold was of the opinion that it would be possible to get permission from Schuschnigg directly to rebuild the NSDAP in the form of a cultural association. We were of the opinion that any legal form of association (even a rabbit breeding association) could only be permitted if we made an ideological compromise; but this would be impossible, the ideological line must be kept. I relied on the Fuehrer's word: "My idea will also melt those ice blocks on the other side." From this I recognized that the Fuehrer, first of all, had confidence in the dynamics of his idea. Then: "Did you use all political possibilities?" There were different ones to be utilized in the process of which we tried to avoid bringing the unity of the Party to a breaking point again. That demanded the severest personal sacrifices. We had to take accusations bordering on the grotesque. We had to meet situations sounding out-of-date today; at that time it was a matter of life

* This document was introduced in the IMT trial as Exhibit USA-890; the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXIV, pages 4-39.

and death. We had to fight it through. I tried over and over again to explain my attitude to Leopold and his co-workers. [Dr.] Jury again and again met me halfway. After Leopold expressed confidence in myself and Globus [Globocnik], Klausner was compelled to talk to him. There were, to say it again, difficult discussions. There already was a representative of the Reich involved, SS Major General Keppler and his co-worker Kaesemeier [Veesenmayer], who were present as the official representatives of the Fuehrer.

At the end of 1936 the time had come when Keppler declared unequivocally: The political program represented by the Carinthians is the only correct one. But it must be tried to make this attitude into the generally accepted one; so that Leopold is converted to it. I should like to state: Party member Leopold, who was killed in action in the East, stands out firmly in his clear-cut attitude; political mistakes which were made cannot be considered as a guilt in retrospect.

* * * * * * *

Schuschnigg's opinion was that the Reich, in view of the foreign policy situation (Paris and London), needed again to make an agreement in the style of 1936; it would be sufficient if Schuschnigg made a number of concessions; they would separate; the Fuehrer would be enthusiastic; the matter would be settled.

We had already prepared the following:

The last result of the conversation Seyss [Seyss-Inquart] communicated to me in a place in the Kaerntnerstrasse. I called the telephone number where Globus was to be reached in Berlin and told him about the negative result of the conversation. I could speak with Globus entirely freely. We had a secret code for each name and besides we both spoke a terrible dialect so that not a soul would have understood us. Globus immediately wrote down this report, and communicated it immediately via the Security Main Office by teletype to Munich, where it was written down. In the meantime Keppler had gone to Munich by sleeping-car. When he left the train, the State Police Munich handed him the letter with the latest Vienna report, with which he left for Berchtesgaden. I then forwarded instructions by Party member Muehlmann, who proved to be an excellent liaison man to Party and government offices in the Reich. He left for Salzburg on the same train as Schuschnigg. While Schuschnigg had his car taken off at Salzburg and spent the night there and continued by car to the Obersalzberg on the following day, Muehlmann continued on and went to Berchtesgaden; Keppler and he went to

the Fuehrer before Schuschnigg could tell him everything.[1] Schuschnigg arrived in the morning, was received and found to his boundless surprise that the Fuehrer took up the negotiations where they had broken off without results the day before between Seyss and himself. The Fuehrer did not conduct the negotiations as Schuschnigg expected. He went the whole hog. Schuschnigg was finished off that time in an almost unimaginable way. The Fuehrer got hold of him, abused him [hat ihn befetzt] and shouted at him and reproached him with all the dirty tricks Schuschnigg had committed during the years past. Schuschnigg had become a heavy smoker. We had connections even into his bedroom, we knew about his way of life, now he was smoking 50, now 60 cigarettes. Now at the Fuehrer's he was not allowed to smoke. Schuschnigg could not even smoke.

Ribbentrop told me he really pitied Schuschnigg. He only stood to attention before the Fuehrer, had his hands against the trouser seams and all he said was "Yes". Schuschnigg tried to object to something but got so terribly shouted at that he fell back into silence. Then the meal was taken. Then the Fuehrer called Sperrle who had just relinquished the command in Spain. The Fuehrer asked him to speak about the Air Force.

Schuschnigg was given a very impressive picture of the German armed forces. Keitel, too, was present. After the meal the Fuehrer asked Ribbentrop to continue conversations with Schuschnigg. Before the conversation with Schuschnigg began, Schmidt[2] went to Ribbentrop and said, "Please permit the Austrian Chancellor to smoke one single cigarette," which was allowed. Ribbentrop then talked to him: Now look at the situation as it is—the Fuehrer is not a man to joke with. There are chances for you, the Fuehrer wants to conclude the treaty with you, if you concede. The development leads to National Socialism. He developed before him how Hitler saw the future Reich, how the Anschluss was. Ribbentrop had the feeling of having mollified Schuschnigg by his kind words. So it was possible to draft a number of regulations in the final conversations.

Schuschnigg had taken it onto himself to obtain President Miklas' consent. During this conversation, which lasted for quite a while, Zernatto in Vienna was hanging nervously on the telephone. He called up the security director [Sicherheitsdirektor]—who is still in the concentration camp to-day—in Salzburg and asked about Schuschnigg and when Schuschnigg did not come

[1] For an official report on this meeting on 12 February 1938, see Document Keppler 240, Keppler Defense Exhibit 217, reproduced below in this section.

[2] Apparently reference is to Guido Schmidt, Austrian State Secretary for Foreign Affairs, July 1936–February 1938; Minister for Foreign Affairs, 15 February–12 March 1938. Schmidt was tried by an Austrian court for high treason and acquitted, 12 June 1947.

back, he understood that the conversations were not developing as desired, as Schuschnigg was being delayed at the Obersalzberg.

The Salzburg garrison was mobilized, preparations were made to liberate the Federal Chancellor; the Salzburg garrison was mobilized but not put into action, but it was standing by.

In the meantime Schuschnigg was back and had spent the night in Salzburg. Zernatto wanted to learn something from him and tried to speak to him over the telephone but Schuschnigg was exhausted.

We were in Vienna and got our news. Zernatto was in greatest anxiety, was at the station the following day to meet Schuschnigg, spoke with him and got the following description: "The Fuehrer is a devil, he is berserk, a lunatic, it was terrible the way he treated me." Schuschnigg was so much under the weight of the events that he was completely without a will of his own. He was simply knocked out. Guido Schmidt too confirmed that it had been terrible. Ribbentrop had been kind, he had been the only one.

Now the treaty had to be ratified by Miklas. The good old Catholic Miklas, who was under the influence of the Pope, was not easy to fell. We had to fight for 3 days with the result that at that time even the threat of an invasion was made, that finally Miklas' father confessor was informed by us. Finally Miklas signed the agreement but with greatest repugnance. You know the result. A ministry was formed with Seyss. Schuschnigg took the opportunity of not only taking in Seyss but also other people who were to counterbalance him.

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In those last days of February, Schuschnigg made a step from a Catholic politician to a politician who is ready to ally himself with the Soviets in order to prevent the Anschluss. He prepared the formation of a black-red [Christian Socialist-Social Democrat] coalition. This made the situation of the Party difficult. At the same time we received the strictest instructions from the Fuehrer. According to the February agreement it was as follows: The Fuehrer salute could be used, the songs were sung. Large demonstrations occurred at Graz.

The Fuehrer sent us Keppler with instructions to be extremely careful regarding the political developments of the Austrian situation. Keppler was already sitting in the airplane when he was recalled. He said: "We have to go the road of evolution, no uprising must develop as yet, we shall not whirl for the time being." Klausner kept the Party back. Those are the reasons why the demonstrations of Graz which had been prepared and which had started had to be canceled. Such was the situation

in Graz that Schuschnigg believed that it might become necessary to use troops and he hoped to split the Party from the government of Seyss and Glaise.

Significant was the following:

It could be seen from these actions that the men of the Party marched according to a political command. Just as they assembled, they also departed on the minute. When the troops arrived, the streets of Graz were free. When Seyss visited Graz, the whole city was covered with swastikas for one hour but one hour later everything had quieted down. Schuschnigg now recognized that the Party had political leadership and those who march on the streets are like those who are in a reserve position, and the Party is not blind but has political leadership. In this manner the plebiscite developed, by which he hoped to take the Reich by surprise and to hasten the guarantee of the Western states for an independent Austria.

These actions had another consequence. The Fuehrer could convince himself that the Party in Austria is ready and that the masses of the population are on its side. This was decisive for the decision which the Fuehrer made on 11 March. The Federal Diet [Bundestag] then convened to which Schuschnigg said again and again, "very good for Austria." I was with Reinthaller as representative of the people in the visitors' gallery of the Bundestag. That was the first time I saw Schuschnigg really close, previously I only saw him fleetingly in a theater box. I saw how unnatural this man was in his behavior and his speech. I saw the big propaganda circus of Zernatto. Our political outposts, Seyss and Glaise, were very much perturbed about this conduct of Schuschnigg, showing complete lack of understanding, while we three people from Carinthia rubbed our hands. Who will make the first mistake? We lay in wait; he who made the first mistake would be at a disadvantage; Schuschnigg made this mistake. He saw that the development continued without a stop and nothing seemed to disturb the road of evolutionary Anschluss with the Reich. It was only a matter of months, he could have participated in this development by letting himself be carried along by it; he would have been ousted honorably but Schuschnigg returned to his old German-baiting attitude. He tied up with the Reds. We received news that he was beginning to negotiate with the group of the Mayor of Vienna, Schmitz, and that Schmitz was negotiating with Seitz* and with Communist leaders, that certain fighting organizations were being secretly formed and that they

* Karl Seitz was the head of the Social Democratic Party and Lord Mayor of Vienna until the dissolution of the Social Democratic Party in 1934. Schmitz, a Christian Socialist, succeeded Seitz as Lord Mayor of Vienna.

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were tolerated by Smitz [Schmitz], the Mayor of Vienna. We received news that a Bundesrat [member of the Austrian Bundesrat] had proposed a plebiscite to Schuschnigg. At 9 a.m. Wednesday, 9 March, Globus and I were riding in a loaned car which was our pride, from the illegal shack [Bude] in Vienna to the Seitzerstrasse where the office of the Referent for German Folkdom was located. Klausner and Jury waited for us at the door. Klausner said that Jury had interesting news. Schuschnigg intended to hold a plebiscite on the following Sunday. Klausner said that was no nonsense, it was a fact. We drove to Seitz at Hof 8 and sat down there—Klausner, Jury, Globus, and myself.

Under a pretext, Schuschnigg decided with his intimate advisers that this plebiscite should take place Sunday. The regulations which I remember were such that the whole voting was a fraud. The rules were laid down. Only a few intimates were informed; Zernatto, Smitz [Schmitz], the whole left wing of the Christian Social Party. The rules were dictated by Zernatto to his secretary. It was resolved to keep this intention secret till the evening of the next day. Schuschnigg went to Innsbruck and was to announce the decision from there. Zernatto said: It will be Wednesday when the Nazis hear about it, their actions can start at the latest on Thursday, they can begin with their propaganda on Friday, we gain an advantage of 2 days and with this advantage we can win the plebiscite with a small majority.

The secretary of Zernatto became ill, she had to go out. In reality she was National Socialist and once outside she took a piece of paper in great haste and wrote on it what she knew and sent this slip to us by the surest method. At 10:30 we knew the whole plan. Early in the morning Seyss was taken to Zernatto. Zernatto had asked him in the name of the Federal Chancellor to give his word of honor not to speak about what he had heard. Seyss gave his word of honor. Whereupon Seyss phoned to Jury that something was going on, he could not speak about it, but we should come to a conference. We asked Seyss, "Is it true * * *?" Seyss said, "I am bound not to speak by my word of honor but we want to act as if it is true" (diplomat that he was). The matter was clear for us. We had a short conference. All of us were of the opinion that this was the treachery of Schuschnigg, the treachery of the agreement of Berchtesgaden. How we should react at the moment, we did not know at this moment, we had to conduct ourselves according to the Fuehrer.

* * * * * * *

The propaganda-circus of Zernatto started on Thursday, 10 March. I was with his co-workers at that time. Klausner had

conversations with Seyss, Jury, and other personalities. There was much activity in the streets, trucks came, airplanes dropped leaflets and people congregated everywhere. I had a report: of the former red community police [rote Gemeindewache], 3,000 were uniformed and armed. We still did not know what was going on. Globus had not returned. He was still in Berlin in the Reich Chancellery, anticipating events. He told everyone: "I must go back, they are waiting for me."

In the night from Thursday to Friday all Gauleiter were in Vienna waiting for information. National Socialists were attacked and so, on 10 March we issued orders to the SA and SS, Lukesch and Kaltenbrunner, on our own initiative, to call out, beginning Friday, half of our formations for the protection of National Socialists in the streets whereas the best men were to remain armed in their barracks in the event of a civil war. We had to be ready to deal not only with the executive authorities but also with the red mob.

In the evening, at 7 p.m., I received a report that a National Socialist had been knifed, he was dead or wounded. I gave orders to Party Member Lukesch to deploy closed SA formations in Vienna. Such a closed SA formation, not yet uniformed and without swastika arm bands marched in ranks on Guertel [street], the mob raged but no one dared touch them. I telephoned to Berlin and described the situation in the worst light—civil war!

Conferences took place. Next day the total refusal for the plebiscite became evident. We were at the airport too, Seyss and Glaise arrived, they had been visiting Buerckel in the Saar Palatinate. The Fuehrer had retained Glaise in Berlin. I held conversations with Seyss. We could not agree yet. The Legation told us—shipping was still open—Seyss was to discontinue negotiations. Opinions clashed. On 11 March, after receiving the letter, the Fuehrer had a short conference with the Wehrmacht agencies and ordered strategic concentration of troops. He sought to obtain the liberation of Austria by force of arms. We knew nothing about it, not even Globus. Globus returned, was sent back to Vienna Thursday evening by special airplane. Goering was against it, since the plane, having to cross Czechoslovak territory, was in danger of being shot down by Czech fighters. The Fuehrer gave the Party in Austria full liberty of action.

* * * * * * *

In the meantime the situation was this—more and more people in the streets. We knew that in the meantime in all the cities and villages of Austria torch-processions, the demonstrations were getting under way. In Vienna also the streets were full. Many

swastika armbands could be seen. The taking over of power was in full sway in the streets. It was 7 o'clock. At 7 o'clock it was so far that, after a last attempt to negotiate with Miklas, he declared that he could not appoint a National Socialist as Federal Chancellor, "God help me"! The situation in the chancellery had now become critical. Guards and police were occupying it. We were a very small group of illegal Nazis, really only Globus and I. A few more people of the field in between [Zwischenfeld], Seyss, Glaise and Muehlmann, Keppler with Kaesemeier [Veesenmayer]. At 7:30 o'clock Keppler said:—I said—now the German armed forces are marching. Keppler said, the German armed forces are not at all marching. Yes, the ultimatum has expired. No, said Keppler, it is not so far. We must create a pretext for the Fuehrer to march in. We must take action of some sort. I said, we must use the moment when the government believes that the march is on for action, and I said, I will give the order for the seizure of power.

Keppler said, you cannot do that. I said, Klausner will give me his consent. You are not the authority, you have nothing to command. Globus had to remain behind. Kaesemeier [Veesenmayer] and I drove away. Globus had seized the telephone and constantly used the phone of the chancellery and kept up the connection with our Party offices on the outside. In the meantime, Seyss had arrived, and Glaise, and they steadily continued their discussions under the pressure of the German marching in [Einmarsch]. At our billets we found the leaders of the Party formations in highest tension. We occupied our command post in the center of the city. Klausner and Jury arrived there also. He had left the place of safety, which he as military commander must occupy and at this moment everything depended on Klausner.

I described the situation to him and asked him for the order to strike the first blow. He gave it. I laid the order before the Gauleitung and with unheard of clearness and calmness gave it through by Mohrenschild over the telephone:

1. Order—In the face of Schuschnigg's resignation and in the absence of a legal government, the leader of the National Socialists, to maintain order and safety, has given the order to Klausner, to Minister Seyss-Inquart, to carry out the government and in agreement with Seyss-Inquart issued the order to seize the power to all Party formations.

This first order was given out at 8 o'clock in the evening. In the meanwhile only one district had gone ahead and seized power —Carinthia. Sucher at that time had only requested Pawlowski that he might later be a judge again. He also requested to be

allowed to phone to Vienna next day, to get Schuschnigg's confirmation.

In Vienna also the actions were started. The SS and SA operations were discussed with Lukesch and Kaltenbrunner.

In the Federal Chancellery we could make headway only if we got it into our hands. In this whole action we always kept the 25 July [Putsch] in mind so as to avoid certain mistakes and accidents which we at that time had had. I asked Lukesch; "How many men can you mobilize?" "6,000 men can march within half an hour." Kaltenbrunner could organize 500 SS-men. These were to march to the Federal Chancellery. The resistance of the guards was to be overcome by fraternization [Verbruederung]. They have to take the Federal Chancellery, 50 SS-men, many of them men of the 25 July, received, under the leadership of Rinner, the order to occupy the building. Further orders to take over the Fatherland Front [Headquarters], industrial enterprises, electric power plant, State offices, and town hall. Colonel Angelis,* then liaison man between the Party and the armed forces [Wehrmacht], received orders to take the Ministry of the Army. In the course of the seizure of power it was funny. We called out the Hitler-Youth with the order to create the mood for fraternization in the streets. Schoas, who led the Hitler Youth, later told us that he had given the order to carry fraternization to the extent that girls could throw their arms around a policeman's neck. The whole inner city then was full of people and in all the other federal provinces it was exactly the same. The demonstrations of joy mounted. In the meantime there was the last address of Schuschnigg, which ended with the song "Roses from Tyrol," then Seyss spoke, for everybody was waiting for the announcement of the new government. It was 8:45 o'clock, that is when Globus called from the office in the Seitzergasse. "We simply cannot go on."

Klausner, Jury, and I and Kaesemeier [Veesenmayer] came to the Federal Chancellery, it was locked. We knocked, a policeman opened. "Who is there?" By order of Seyss we wanted to enter. Question passed back—then one came, led us through somewhere in the rear and there everybody was armed to the teeth. In the court were machine guns. They wanted to prevent a new surprise attack like the one on 25 July. We were taken upstairs, up here the situation was the same as before. Seyss shrugged his shoulders. There was nothing to be done. Now in the meantime we had started the strategic concentration of 6,000 SA-men, etc. Seyss went out to the Federal President and reported this to him. In the meantime the reports arrived of the seizure of power.

* Colonel Maximilian Angelis, Austrian Army officer.

But in the meanwhile all telephone conversations had been directed via Globus.

The Nazis in the Federal Chancellery were already organized, the man of the house was Globus; the house was occupied by policemen, around the house SA, SS, in the house were we who acted, and the Austrian government, who did not act. Act we did. Until 1 o'clock in the night Ludwig* and his companion sent calls for help by wireless to Paris. We then put an end to this by placing two strapping SS-men in his room.

* * * * * * *

But we were not yet through. At last—it was already around 12 o'clock—Miklas, under the pressure of the already accomplished seizure of power by the NSDAP in the whole of Austria, acknowledged the resignation of Schuschnigg but did not yet appoint Seyss as Federal Chancellor; but asked him to continue with the business of the federal government. Seyss informed us of this. It was possible according to Article 84, etc. of the Constitution. We read what this meant. This was a government which required for each of its acts the countersignature of the federal president. Nothing could be done with such a government. We had, however, to be satisfied. Therefore, we formed a second government in accordance with Article 84 of the Federal Constitution. Legal difficulties arose. Seyss therefore had to negotiate further. In the meantime, Himmler had phoned from Munich whether we were not finished soon; he wanted to fly over already. We said he would have to wait yet. Klausner made a speech; the torchlight procession was standing in front of the Federal Chancellery. The members of the government, Klausner, Seyss, stepped out on the balcony. I was in the midst of conferences and of issuing instructions, Globus arrived: "Friedel, you also must step onto the balcony!" I had to go. I said I had no time, and went back.

We continued working, and then—it was already after midnight—came Seyss and said, "I was appointed Federal Chancellor. I must submit a list of the members of the government." We wrote, therefore, the third list of the Seyss-Inquart government. Miklas did not appoint Klausner and Kaltenbrunner and refused to take them into the government. We telephoned to Himmler that he could start. I said it did not make any difference what Miklas did, we needed the signature. Thus the signature was obtained. Globus said, "We must go to the airport, Himmler is coming." Seyss was tired, he drove home. Klausner was the leader of the Party and we drove to the airport. Here

* Reference is apparently to Eduard Ludwig, an official in the Austrian Foreign Ministry.

the following incident occurred. When we entered the car in the courtyard of the Federal Chancellery, Skubl,* who had to report to Himmler, was still in it. Outside, the whole street was crowded with National Socialists. They noticed the departure of cars. First there was the car with Klausner, one with Kaltenbrunner, then a car with us. Suddenly I became very frightened. Skubl was sitting in here, nobody knew Globus and me, but everybody knew Skubl. When they saw Skubl, anything might happen, we might even be killed by our own people. Skubl, however, crouched low in the car. In that way we arrived at the airport and there we sat around. Excitement which nobody will ever forget who experienced it. The SA from Aspern had already taken up position in civilian attire, looked terrible. Skubl was so fatigued that he lay down in an office. We sat in the restaurant. Kaesemeier [Veesenmayer] brought a ring of cervelat-sausage. That was the first food I had, as I had not eaten the ham sandwiches in the Federal Chancellery because I had no time. Then it was said; "Himmler is coming." Skubl was awakened at the last moment. SA stood in the lobby of the airport and the men of the Fuehrer and of the Reich Leader assembled outside. Then the SS leader stepped down from the airplane, at whom we stared; men with automatic pistols formed a circle around the airplane, ready to fire.

* * * * * * *

The Fuehrer arrived on the same day. Klausner was ordered to report to the Fuehrer in Linz. We received from Klausner the order to follow him in an airplane. We flew to Linz with an Air Force squadron and could report to the Fuehrer, receive his handshake, returned then to Vienna and were present when the Fuehrer on the second day, coming from St. Poelten, arrived in Vienna and made the most important announcement in German history.

Thus ended the struggle of the Party for power in Austria.

* Dr. Michael Skubl, Police President of Vienna; State Secretary for Public Security in Austria March 1937–March 1938.

TRANSLATION OF KEPPLER DOCUMENT 103
KEPPLER DEFENSE EXHIBIT 45

INTRODUCTIONS TO THE PUBLICATION, "THE ANSCHLUSS PROBLEM," PUBLISHED IN 1930, BY THE PRESIDENTS OF THE GERMAN REICHSTAG AND THE AUSTRIAN NATIONAL ASSEMBLY*

INTRODUCTION

Ever since the question of Germany's reunion with Austria was brought up by the well-known resolution of the Austrian National Assembly of 12 November 1918, the chances for its realization oscillated very much. First it appeared as if a firm decision of those two parts of Germany would be able to accomplish an irrevocable *fait accompli,* but then the prohibitive regulations of the treaties of Versailles and St. Germain caused these hopes to sink almost completely. Only gradually did the confidence win the upper hand again that the last word had not yet been spoken with respect to these bans and that—disregarding the way out for the League of Nations—such an elementary right as that of national self-determination (such as the unification of Germany and Austria constitutes) cannot be annulled indefinitely if its supporters are decided to fight for it until it is accomplished.

This realization, above all, provided a new impetus for the Anschluss movement, not so much the consideration of the economic necessities of mutilated states, however much these necessities may have increased the urgency of the motives leading to the movement. Tremendous mass meetings in Austria and Germany have demonstrated to everybody who wants to know the truth, the will of the German people. The more the responsible government circles refrained from an open confession under foreign pressure and had to resort to a diplomatic formulation which allowed various interpretations, the more the independent political leaders of all parties of both countries emphasized that they would not abandon that goal. But not only politicians—jurists, physicians, technicians, merchants, representatives of communities, leading persons in the economic system, union men, gymnasts, sports fans, singers—all classes of the people who had an opportunity at all to express themselves with respect to this question see that opportunity joyfully in order to emphasize anew what had never been doubted—that the entire German people

* This publication, from which only the introductions were included in the exhibit offered in evidence, was entitled "The Anschluss Problem, Its Cultural, Political, and Economic Significance" ("Die Anschlussfrage in ihrer kulturellen, politischen und wirtschaftlichen Bedeutung"). The publication was edited by F. G. Kleinwaechter and Heinz von Paller and published by Wilhelm Braumueller, Universitaets-Verlagsbuchhandlung, Vienna and Leipzig in 1930.

from the sea to the Alps demand a unification in one Reich. As long as the foreign power factors [aussenpolitische Machtfaktoren]—also their transformation can be clearly recognized—stood in the way of the realization of this goal the adjustment of internal conditions, to which a considerable part of this book has been devoted, will prepare the smooth transition of the unification in all spheres of international life. Herr Kleinwaechter and Herr Paller set themselves a meritorious task by dealing with the entire complexity of the great problems in this book, which all friends of the Anschluss welcomed joyfully and which presents to the world a clear and great survey of the historical reasons and the significance of the justifications and the necessity of the union of its retarding and accelerating factors of the new international creation.

Thus I wish much success to your work.
Berlin, October 1930

[Signed] PAUL LOEBE
President of the German Reichstag

Together with the editors of this work I am of the opinion that it is time to transfer the treatment of the Anschluss problem from the sphere of slogans into the sphere of serious and real political considerations and usable setting of a goal. In this respect we German-Austrians [Deutschoesterreicher] must, above all, start from the principle that we do not desire this union for the purpose of hiding behind Mother Germania's skirts in order to be relieved from any further individual responsibility. Not as a poor relative but as equal, useful members of the great German family, do we want to enter into the circle of our compatriots.

It is the wrong attitude towards marriage if one partner attempts to secure from the other protection from the dangers of life and a true marriage comes about only if both partners are determined to share joy and sorrow; in the same way we German-Austrians must not regard the Anschluss as a marriage of convenience if it is to constitute a step forward in the development of the German Nation.

And then we German-Austrians must never forget that we are not the only Germans who live outside of the frontiers of the German Reich. Our union with the Reich must not lead to a repetition of the foundation of the Reich in 1871, which finally resulted in the absurdity that a Pole living inside the Reich boundaries was supposed to be a German and a member of the German people residing outside these frontiers would not be a German. Nothing is more un-German than a self-pleasing "feeling of saturation." We must not forget that even then we will

only be a part of the great German family whose sphere of activities cannot be confined to the boundaries of a state.

These are my desires which may accompany this work on its way to success.

Vienna, October 1930.

University professor DR. ALFRED GUERTLER
President of the Austrian Nationalrat

TRANSLATION OF KEPPLER DOCUMENT 114
KEPPLER DEFENSE EXHIBIT 55

"GENTLEMEN'S AGREEMENT" BETWEEN THE GOVERNMENTS OF GERMANY AND AUSTRIA, 11 JULY 1936, CONCERNING CONDITIONS NECESSARY FOR PLACING RELATIONS BETWEEN GERMANY AND AUSTRIA ON A NORMAL AND FRIENDLY BASIS

22 copy

[Stamp] Top Secret

Gentlemen's Agreement

In the conviction that the desire—expressed by both parties—for again placing the relations between the German Reich and the Federal State of Austria on a normal and friendly basis presupposes the fulfillment of a series of preliminary conditions by both governments, the two governments give their approval to the following confidential Gentlemen's Agreement:

I. Rules governing the treatment of German nationals in Austria and of Austrian nationals in the Reich

The organizations which in both countries exist for the nationals of either country are not to be hampered in their activity as long as they abide by the directives laid down by the laws in force and neither interfere in inner-political matters of the other state nor, above all, attempt to influence nationals of the other state by propaganda.

II. Reciprocal cultural relations

All factors which in both countries are of import for the formation of public opinion are to be harnessed for the task of making the reciprocal relations again normal and friendly. Accepting as a fact that both states belong to the German cultural sphere both parties pledge themselves to desist at once from making use of the radio, film, news and stage production as a means of aggression against the other party. A gradual elimination of present obstructions to an interchange is being contemplated on

the basis of complete reciprocity. As regards the sale of works of authors of both countries in the territory of the other party—provided they comply with the laws of the country which is purchasing them—all obstructions will be lifted.

III. Press

Both parties will take action to influence the press of their country in the sense that it will desist from exerting any political influence upon the conditions of the other country and that it will restrict its factual criticism of conditions in the other country to a measure which does not offend the public of the other country. This pledge also concerns the press of the emigrants in both countries.

Both parties are contemplating the gradual abolishing of prohibitions regarding the import of newspapers and printed materials of the other party proportionate to the lessening of the tension in reciprocal relations as will result from this agreement. In their criticism of inner-political conditions in the other countries—if it cannot be dispensed with—licensed newspapers are held particularly to abide by the principle laid down in the first paragraph.

The Austrian Federal Government declares that, effective immediately, it is ready to authorize the importation and circulation in Austria of the following newspapers which appear in Germany:

Berliner Boersen-Zeitung
Berliner Tageblatt
Deutsche Allgemeine Zeitung
Leipziger Neueste Nachrichten
Essener National-Zeitung

Effective immediately, the German Government announces that it is ready to authorize the importation and circulation in Germany of the following newspapers which appear in Austria:

Amtliche "Wiener Zeitung"
Neues Wiener Journal
Volkszeitung
Grazer Tagespost
Linzer Tagespost

IV. The problem of the Emigrants

Both parties concur in the desire at the earliest possible moment and by good will on both sides to arrive at a satisfactory solution of the problem of the Austrian National Socialist emigration into the Reich.

The Austrian Federal Government will undertake a study of this question as soon as possible and advise about the findings

of a commission consisting of representatives of the competent ministries for appropriate actions.

V. National Insignia and National Anthems

Each of the two governments declares that within the framework of legal provisions the nationals of the other party will be placed on the same level with that of third states as regards exhibiting the national emblem of their homeland.

The singing of the national anthem will be permitted to nationals of the other party—except on official occasions—in gatherings not open to the public and which are attended by such nationals exclusively.

VI. Economic Relations

The German Reich Government is willing to initiate normal economic relations between the Deutsche Reich and Austria under elimination of the party-political factor, and this readiness will also include the reestablishment of the small-scale boundary traffic, discrimination against persons and territories—except where they are founded on strictly economic considerations—will not be made.

VII. Traveling

The travel restrictions which in the wake of the tension which developed between the two states were decreed by both parties will be abolished. This understanding has no bearing on the restrictions stipulated by both countries by reason of currency protection legislation.

In order to preclude undesirable concomitant phenomena, both countries for the present will consult each other as regards periodic progressive maximum quotas under which relatives, persons traveling on business, sick persons, and persons engaged in sports (especially members of the German-Austrian Alpine Club) will enjoy preferential treatment as heretofore.

VIII. Foreign Policy

The Austrian Federal Government declares that it is willing to direct the foreign policy of the Austrian Federal Government with due consideration for the peaceful aspirations of the foreign policy of the German Reich. There exists agreement that on questions of foreign policy which are of concern to both governments they will engage in an interchange of opinion as the case arises. Hereby the Rome Protocols of 1934 and their supplements of 1936, as well as Austria's position relative to Italy and Hungary as parties to such agreements will not be affected.

IX. Austrian Declaration on Internal Policy in connection with the agreed upon modus vivendi

The Austrian Bundeskanzler [Chancellor] declares that he is willing:

a. To put into effect a far-reaching political amnesty of which those are to be excluded who have committed grave, base delinquencies.

Also to be included in this amnesty are persons of this category who were not yet tried or administratively disciplined.

Appropriately modified, these provisions are to apply also to emigrants.

b. For the purpose of promoting a real pacification—at the proper moment which is contemplated for the near future—to call on the *representatives of what heretofore was called the "national opposition in Austria"* for sharing in the political responsibility; this to be personalities who enjoy the confidence of the Chancellor and whose selection is left to him. The understanding in this respect provides that according to a plan agreed upon in advance with the Chancellor will be entrusted, with the task of bringing about at home the pacification of the national opposition and its assistance in molding the political will in Austria.

X. Handling of objections and complaints

For the handling of objections and complaints as they might arise in connection with the above Gentlemen's Agreement and in order to guarantee a continued easing of strained relations within the framework of the above arrangements a committee composed of three representatives of the two respective Offices for Foreign Affairs will be appointed. Its task will be to confer at regular intervals on the effects of the agreement as well as on implementations which might prove necessary.

Vienna, 11 July 1936

TRANSLATION OF KEPPLER DOCUMENT 98
KEPPLER DEFENSE EXHIBIT 93

MEMORANDUM OF DEFENDANT VON WEIZSAECKER CONCERNING A MEETING OF GERMAN AND AUSTRIAN REPRESENTATIVES ON 8 JULY 1937, LISTING POINTS OF AGREEMENT

On the afternoon of Thursday, 8 July 1937, a meeting took place at which were present:

State Secretary Schmidt
Minister von Glaise-Horstenau

State Secretary Zernatto
State Counsellor Seyss-Inquart
Ambassador von Papen
Herr Keppler
Ministerial Director von Weizsaecker

The conference was absolutely informal and did not adhere to any agenda or definite program. As a result of the conference, which lasted about 2 hours, it can be noted that all were agreed—

1. That the agreement of 11 July 1936* must be honestly approved and realized in the future.

2. That both sides were frankly to recognize the above principle and not only once but constantly.

3. That non-interference in Austrian internal affairs on the one hand and the pacific campaign on the other were intrinsically inter-dependent and the one as it were assumed the function of the other. Thus one side was not to wait for initial contributions by the other.

4. As to the inclusion of the National Opposition, this was acquiesced to in principle. Herr Seyss-Inquart developed his program in this connection. The question put to the Germans by State Secretary Schmidt as to whether they approved of this program had not yet been definitely answered.

In this connection the unequivocal declaration by State Secretary Zernatto was important, namely that the inclusion of the National Opposition in the work of the state organization was conditional on the National Opposition joining the Fatherland Front.

5. With regard to the emergency legislation, moreover, an outline was given of the contents of the new law to be passed, which with the exception of one item (legal consequences) was declared satisfactory by Herr Glaise-Horstenau. At the Germans' request, the assurance was given that with regard to compensation for former convicts who had suffered economically, many things could and must still be done.

6. State Secretary Schmidt promised to furnish figures on the following day concerning the extent of the amnesty.

Signed: WEIZSAECKER

* Keppler Document 114, Keppler Defense Exhibit 55, reproduced immediately above.

TRANSLATION OF KEPPLER DOCUMENT 115
KEPPLER DEFENSE EXHIBIT 94

MEMORANDUM OF DEFENDANT WEIZSAECKER ON A MEETING IN VIENNA BETWEEN GERMAN AND AUSTRIAN REPRESENTATIVES ON 9 JULY 1937, REPORTING ON CHANCELLOR SCHUSCHNIGG'S ATTITUDES

Vienna, 10 July 1937

In the afternoon of 9 July, a conference took place at the office of Federal Chancellor [Bundeskanzler] Dr. Schuschnigg, which was attended by the State Secretary Schmidt and Minister von Glaise-Horstenau—*as Austrian representatives*—and by Ambassador von Papen, Herr Keppler, and Min. Dir. von Weizsaecker—*as German representatives.*

The conference lasted almost 2 hours and the topics dealt with were of a very general nature. The Bundeskanzler [Schuschnigg] propounded the well-known fundamental concept of the Austrian Government and strongly emphasized the over-all pro-German sentiments of Austria and her foreign policy, which always had been and always would be in keeping with Germany's policy. He then passed on to stress Austria's sovereignty, which was a matter of course for him, and he then dealt with internal political tensions and his intention to eliminate them step by step. He particularly stressed the point that, in regard to the organization of the governmental apparatus, he would at all times and very willingly enlist individually the aid of suitable elements of the national opposition provided they adapted themselves to his over-all program. In this connection, any discrimination against the national opposition would be avoided under all circumstances. As far as he was concerned there could be, of course, no talk of accepting the services, say of the chief of the illegal Party or of collaborating with the Party as such; on the other hand, he would gladly maintain contact with these circles, through for example, the intermediary of Herr Jury, with whom he was in sympathy. Germany's counter-statements as to the need of a speeding-up of internal pacification were answered by him to the effect that nothing could be achieved by deadlines, set in such a political situation. One could feel that the Bundeskanzler did not refuse to include advancements in his program in favor of the national opposition but that he intended to proceed only very cautiously on this road and was obviously worried that, in taking this path, he might lose his backing and, if he went on, might get on to unstable ground. The statements of the Bundeskanzler therefore did not go beyond the assurance of his best intentions.

In the further course of the discussions, State Secretary Schmidt further brought up several details, among which I should like to mention a statement concerning the period of time within which amnesties should be granted in Austria. (See enclosure which was handed over on that occasion.)* The Bundeskanzler was anxious that the noticeable advancements mentioned therein should at last find proper response in Germany.

In regard to the amnesty to be granted to Austrian refugees, the Bundeskanzler made certain concessions, as compared with the principles laid down by the Austrian Government in preceding conferences of the Commission. The final draft to be drawn up would take these concessions into account.

When the conversation again turned to questions of a more general nature and the possibility of including the national opposition in the government and in the administration was again discussed, the Bundeskanzler emphasized that Germany, too, could make a substantial contribution towards accelerating these measures. He stated as an example that Dr. Seyss-Inquart had not been included at an earlier date merely owing to outside influences because the Austrian Government would never give way to pressure. On the other hand, it would be a positive contribution if the Fuehrer availed himself of an opportunity to renounce publicly any German interference in internal Austrian affairs and to make a positive statement on the subject of Austrian sovereignty.

The Bundeskanzler made a few remarks about Captain Leopold and the illegal Party organization, led by him, indicating more the absence of recognition for the mental ability of the leadership of the Landesgruppe [illegal Party organization] than any actual hostility.

Signed: WEIZSAECKER

TRANSLATION OF DOCUMENT 3392-PS
PROSECUTION EXHIBIT 16

LETTER FROM SEYSS-INQUART TO DEFENDANT KEPPLER, 3 SEPTEMBER 1937, CONCERNING RELATIONS WITH VARIOUS OFFICIALS OF THE AUSTRIAN GOVERNMENT AND NAZI PARTY IN AUSTRIA

Dr. S/K 3 September 1937

Right Honorable!

Dear Mr. Keppler!

It is appropriate in my opinion that you, my dear Mr. Keppler, should remain well informed about incidents occurring between

* The enclosure was not a part of the document offered as the defense exhibit.

the action taken by me and the Teinfaltstrasse.[1] In this respect I am keeping the result of the discussion at Mondsee in mind and I am taking the thoughts of your last communication to heart. I therefore do not take any stand in regard to these individual incidents and above all I avoid any one reaction, insofar as I do not request Dr. Jury[2] to initiate a corresponding clarification.

I take it upon myself to transmit the edition of the "Oesterreichischer Beobachter"[3] of August as an enclosure, and draw your attention to the leading article "Here and There" whose contents probably are intended to be only personal and not objective anymore.

I refer to the communication—Hitler "Mein Kampf" permitting!—and believe that I will not have to add anything here, since you are acquainted with the individual incidents which occurred on the Saturday in question.

Finally I turn back to the report, "Law for the Protection of Order." In this case the matter stands as follows. Minister Glaise has attempted to incorporate the emergency decrees into a usable system ever since the first moment of his taking office and to decrease them *to a reasonable extent.* When he came with his suggestion, Neustaedter-Stuermer[4], the comrade in arms of the Teinfaltstrasse had a draft prepared by the Chief Management [Generaldirektion] which can only be considered as an aggravation of the conditions at that time and which in the meantime has been overcome by the Law for the Protection of Order. Minister Glaise then in turn had a counterdraft prepared by Dr. Mannlicher. In view of the resistance on the part of the Chief Management, the chances of the latter's success were little. In early April, when the Federal Chancellor [Schuschnigg] was negotiating with me about the section, I on my part made the condition that the draft by Mannlicher was to become the basis of the innovation. The Federal Chancellor accepted this request and negotiations took place on this basis. When finally nothing came of the section and the exchange of ministers took place, the Chief Management again introduced its own suggestion, which did not contain anything new except the lessening of the extent of punishment and the introduction of the right of appeal. Dr. Mannlicher was full of despair because of the continuation of this

[1] "Teinfaltstrasse" was the name commonly given to the headquarters of the illegal Nazi Party in Austria which was located on Teinfaltstrasse in Vienna.

[2] Jury, deputy leader of the illegal Nazi Party in Austria, apparently was approached rather than Captain Leopold, the chief leader, because of the differences which Seyss-Inquart and others had with Captain Leopold.

[3] "The Austrian Observer" ("Oesterreichischer Beobachter") was the organ of the Austrian Nazi Party.

[4] Odo Neustaedter-Stuermer, Austrian Minister of Security, 3 November 1936 to 20 March 1937. (*Documents on German Foreign Policy, 1918–1945; op cit.*, Series D, Volume I, page 1210.)

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action. In a renewed conference with the Federal Chancellor I urged that the suggestion of Mannlicher be accepted finally as the sole basis of the innovation, and that the latter be drawn to a close. Further negotiations on this basis led to an agreement between Minister Glaise and Dr. Skubl, with consultation of Dr. Mannlicher. After that I talked to the latter, who remarked that it would be practical to make some further additions to the draft, which however, in view of the final conversation, was considered hopeless by him. I now addressed a communication to the Federal Chancellor, requesting that four more additions to the draft which had already been discussed, and in particular concerning the possibilities of appeal and complaint to the Federal Court in cases of detention over a period of 3 months, the preservation of the secrecy of letters under normal conditions, the rescission of the same under more acute conditions only in the course of criminal procedure, etc.

The Federal Chancellor took up this suggestion, read my letter in the Council of Ministers and these additions were incorporated into the Law for the Protection of Order. After the incidents at Wels [Upper Austria] on the occasion of the conference at St. Gilgen, influences which called for the postponement of the publication of the Law for the Protection of Order until autumn were predominant and the Chancellor promised me to announce the law on approximately 20 August 1937 and this actually happened.

My cooperation in the readmittance of the book "Mein Kampf" and in the legislation of the Law for the Protection of Order is known to the Teinfaltstrasse, even though not in all its details. I cannot suppose that a responsibility for the incorrect contents of the "Beobachter" should be *refuted* since in this case it would already have to deal with the defects of character mentioned by you.

In the meantime an order has been transmitted to engineer Reinthaller to the effect that the latter was not to call any meetings of the peasant leaders without agreement of the political leadership and without consulting the same, and furthermore, that the economic machine which is at the peasantry's disposal and which in this case only deals with privately-owned economic institutions, as for example sales stores, etc., was to route its correspondence through official channels, only in this case by way of the office of the political organization or the Teinfaltstrasse.

My stand in this matter is clear. In the sense of keeping the action separate, orders are out of question in order to avoid the self-reproach of having played two sides. I favor making contact in order to remove misunderstandings if possible, and have

recommended corresponding agreement on point (1) with engineer Reinthaller. However, it is in no way possible to invite officials of the political leadership to these conferences. That would be equal to the end of all these actions.

The request to route all correspondence of privately-owned economic institutions through the required channels is essentially and politically impossible.

This matter happens to be somewhat urgent. Leaflets are being circulated here with a strong stand against engineer Reinthaller. I therefore ask you, my dear Mr. Keppler, from your point of view and that, perhaps, in the nature of a telegram to engineer Reinthaller, in which you acknowledge these statements and give expression to your consent.

An expulsion from the Party [Parteiausschluss] already taken place before, is to be followed by others, whereby, in my opinion a separation line will be drawn with just that result, which causes the most worry to the Teinfaltstrasse. In this connection I want to touch on the question of "Wiener Neueste Nachrichten."[1] I am not certain if the instruction in the last "Oesterreichischer Beobachter" will have the intended success, but I understand that the paper's situation is extraordinarily difficult. It seems to have run out of money. But the commissioner and an acting editor in chief are still there. At the time I have discussed in detail the question of the "Wiener Neueste Nachrichten" in a conversation with State Secretary Zernatto and found him willing in principle to join this paper to my action. It would now be necessary to receive corresponding information from the source acquainted with the financial condition. (Ossa) I suggest that the man considered for this be designated to me, as well as the possibilities of a discussion and I shall see to it that a corresponding trusted person will appear at these talks.

I request that the before-mentioned be acknowledged and sign, with best wishes,

With the German salute,

Yours sincerely,[2]

P.S. Just now engineer Reinthaller has informed me of orders and directives which have just reached him. The bearer of this will take it upon himself to transmit them orally. In view of these circumstances the continuation of the action appears hardly possible without leading to very severe conflicts. I can take the responsibility for these only if the line discussed at Salzburg and Mondsee is clear and safeguarded. I therefore leave it to your

[1] This was an Austrian Nationalist newspaper considered friendly to the Nazi Party.

[2] Although the copy of this letter introduced in evidence did not contain the signature of Seyss-Inquart, there was no dispute at the trial concerning the fact that this letter was sent from Seyss-Inquart to defendant Keppler.

consideration, if the moment of your personal intervention has not arrived.

The above named

His Excellency, Mr. Wilhelm Keppler
Berlin W 8, Behrenstrasse Nr 39a

TRANSLATION OF DOCUMENT NG–3282
PROSECUTION EXHIBIT 42

CORRESPONDENCE AND MEMORANDUM CONCERNING DIFFERENCES AMONG NAZI PARTY LEADERS IN AUSTRIA AND THEIR RELATIONSHIPS TO THE DEFENDANT KEPPLER

1. Letter from defendant Lammers to Hitler's adjutant, 30 September 1937, concerning the request of defendant Keppler to be present at any conference between Leopold and Hitler

The State Secretary and Chief of the Reich Chancellery
St. S. No. 3438/37 A

Berlin W 8, 30 September 1937
Wilhelmstr. 78
[Handwritten] Captain Wiedemann to be filed [Illegible initials].

To the Adjutant's Office of the Fuehrer and Reich Chancellor for the attention of [SA] Obergruppenfuehrer Brueckner.

Dear Herr Brueckner:

Herr Keppler just tells me over the phone that the leader of the NSDAP in Austria, Herr Leopold, is at present in Berlin and desires to be received by the Fuehrer. In case the Fuehrer intends to comply with this wish Herr Keppler begs to be present at the audience.

I submit respectfully to report to the Fuehrer and to notify Herr Leopold who is to be reached in Berlin-Schoeneberg, Meranerstr. 1, c/o Rauscher (Telephone 262293).

Heil Hitler!
Yours faithfully,
[Signed] DR. LAMMERS

2. Memorandum of Captain Leopold, State Leader of the Nazi Party in Austria, 7 August 1937, concerning the relation of the defendant Keppler and of Seyss-Inquart to the Nazi Party in Austria and related matters

(Enclosure 1)*

* It is not known to the editors whether this enclosure was originally an enclosure to Lammers' letters of 30 September 1937, reproduced just above, or to Keppler's letter of 1 October 1937, reproduced just below, or whether it was merely a part of the Reich Chancellery files containing these two letters. The three documents were all found in the file "Adj. d. Fuehrers La–Li 83" of the Reich Chancellery.

Memorandum

On 6 August Engineer Gross informed me at my Teinfaltstrasse office that I should appear for a conference with Keppler at Reitter's law office at Salzburg, Dreifaltigkeitstrasse, on 7 August at 1345 hours. I arrived there at the set time. Dr. Reitter then took me to his house by car where Keppler and Fehsemayer [Veesenmayer] arrived at 1500 hours.

After a short introduction I said it would be well if we started straight away and asked Keppler about the purpose of our meeting. *Keppler said:* Well, I just wanted to know how things go with Seyss; at our last meeting we agreed after all that Seyss will not be interfered with in his work but the last few meetings as for instance, in Carinthia, you have taken a very antagonistic attitude towards Seyss and you even said he had been brought up at Feldkirch,* which is not true.

I [said]: As far as I know this is the truth but even if it were not so, it would have no bearing on my attitude to Seyss. In the presence of Dr. Jury, I had a discussion with Seyss in the course of which I asked him how he proposed to go about his work, whether he wanted to create a circle of his own or whether he wanted to fulfill his task as an honest broker between Schuschnigg and me, that is between the government and the NSDAP (i.e., nationalist opposition). I did not make any bones that the setting up or formation of a circle of his own had to bring us into opposition to him because I would view such an action as an attempt at splitting up the national camp in Austria. Thereupon Seyss stated that this was out of the question; as far as he was concerned he wanted to accomplish his task in cooperation with me and would not call on anybody else for that purpose. He would hold the necessary discussion in his office. In reply I promised Seyss my wholehearted assistance and I designated Dr. Jury to keep up a constant liaison between him and me.

That was the situation at the time of the discussion between yourself, Party Member Keppler, Minister Weizsaecker, Legation Counsellor Altenburg, Ambassador von Papen, and myself, which was held on 7 July in the German Legation in Vienna. During this conference it was stipulated quite unequivocally and clearly that Dr. Seyss-Inquart could not be looked upon as intermediary or plenipotentiary of the NSDAP (i.e., nationalist opposition) but as Schuschnigg's confidant; merely as a middleman [makler].

In spite of these clear and completely unambiguous *agreements* Seyss, behind my back, made efforts to be received by Minister Hess, Minister Blomberg, Minister von Neurath, and Minister

* In a letter to Hitler, 22 August 1937 (part of Doc. NG-3578, Pros. Ex. 41, reproduced below) Leopold writes that he had said in a speech that Seyss-Inquart was educated in the Stella Matutina, a Catholic school in Feldkirch which Schuschnigg also had attended.

President Goering and was successful in this. As was confirmed to me, Herr von Papen furthermore wanted to take Seyss even to the Fuehrer. This was planned for the purpose to have photos made on that occasion which were to be distributed with suitable captions to our own and the foreign press in order to create the impression that the Fuehrer had dropped me and that Seyss was now the leader of the national opposition in Austria and would have to be accepted as such. This plan however apparently did not succeed. Individual Czech and Swiss papers however published these premature reports. Furthermore, on 5 July, Seyss contacted the Association of Judges [Richtervereinigung] concerning the nomination of trustees; however they declined to do so, pointing out that I was their Landesleiter. Seyss also started to revive the "Austrian-German People's Front" ["Oesterr.-deutschen Volksbund"] which had been completely dead already. Seyss himself took the office of Chairman and appointed a new committee. Enclosed in the magazine "Die Warte" [The Watchtower], Seyss sent out invitations to join the Austrian-German People's Front and also sent out such invitations to the signatories on the list for the preparatory committee. Seyss not only exhorted the subscribers of "Die Warte", to become members but also sent out letters from his office to National Socialists in the provinces, calling for district headquarters and local groups to be formed. To think that this was permitted and encouraged by the government, while they not only disapproved, but sharply attacked and rejected my proposal to found a "German Socialist People's League" [Deutschsozialen Volksbund], although it was supported by the signatures of 500 of the most eminent men of Austria. It appears superfluous to look any further for the reasons of such conduct.

Seyss furthermore attempted to establish links with the Turnerbund [Athletic League] and other nationalist organizations, in order to form a circle of his own. In this way, Seyss acted contrary to the promise he gave to me in presence of Dr. Jury on 23 June.

Furthermore I was informed of other of Seyss' utterances, which showed anything but a readiness to cooperate, for example: In a letter to Dr. Messina of Carinthia, Seyss wrote he regretted to be unable to give any assistance in the case of Messina's request. The matter did not come under his competency, it came under the Section for German Folkdom [volkspolitischen Referates] to which he unfortunately had not been appointed owing to Leopold's objection. The purpose of these lines is only too clear. In a letter to the Federal Chancellor, Seyss further requests that the security authorities be instructed to leave "his

circle" unmolested. He explicitly enumerated the following men as belonging to his circle: Dr. Friedl Rainer, Blobotschnigg [Globocnik], Reinthaller, and Langoth*; again a clear indication of his ambitions to establish separate circles of his own. To Dr. Krueger, the editor of the "Essener Nationalzeitung", Seyss said that the Federal Chancellor, in his capacity as head of the government, could not accept Leopold as his opposite number; for it was necessary for all material and moral aid from the Reich to the National Socialists in Austria to cease and all communications and contacts to be cut off, since one could see from the Dum case where such matters led to.

Seyss' attitude towards me and the NSDAP is absolutely hostile. Prior to 16 July, according to a report of the intelligence service of the Gau Vienna, Seyss launched repeated and quite undisguised oral attacks in a certain circle against Minister Glaise-Horstenau, whose position with the Chancellor he wanted to undermine, in order to take his place, for only from that position could things be achieved. On that occasion, Seyss also said that a strict line of demarcation had to be drawn between themselves on the one hand and Leopold and the "illegal followers" on the other.

On 26 July, Dr. Safert told me at Salzburg, at a hotel, in presence of my adjutant Gruss, that Seyss had said to one of his closest friends, Berger, of Vienna—who in his turn had told him (Dr. Safert): "Leopold will soon be at the end of his tether, then a struggle for the leadership will start, which will tear up everything; the next *wave* (?) will wash everything away and only then can true peace begin." All these are only small excerpts of the reports I received on Seyss' utterances, I only quoted these reports for the truth of which I can produce reliable witnesses, so that they may be proved as correct.

During our discussion of 23 July, Seyss agreed to keep to his promise but his actions everywhere and at all times were directed to the contrary. I pledged my support to Seyss and punctually kept to this until such a time, when I realized that Seyss was setting up a circle of his own and intentionally creating a split in the nationalist camp. It was only toward the end of July and the beginning of August that I took up positions against Seyss. Party Member Keppler said this could not go on, I ought to know that he (Keppler) had been designated by the Fuehrer to be the leader in the whole Austrian matter; Minister Hess and he (Keppler), himself, had informed the Fuehrer of Seyss' method and the Fuehrer had approved it.

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* Franz Langoth, a leader in Greater German People's Party in Austria, later Mayor of Linz and SS Brigadefuehrer.

I was bound to know that my view put me in opposition to the Fuehrer. I further ought to know that the Fuehrer could not consider the solution of the Austrian problem before 1942, and that we in Austria had to make it our aim to secure positions of influence by any possible means. My way of proceeding against Seyss would upset the entire scheme and make it impossible for Seyss to carry out his task, which he had received in the Reich from Minister Hess and others on the occasion of his Berlin visit. Furthermore, discussions between Seyss, Reinthaller, Dr. Jury, and the Federal Chancellor had also taken place already, in the course of which the transfer of the National Socialist Peasantry [Nationalsozialistische Bauernschaft] into the Peasant League [Bauernbund] and Reinthaller's appointment as Reich Peasant Leader for Austria had been agreed upon. This already constituted a position of influence for the NSDAP.

Thereupon I replied I knew that the Fuehrer had appointed Party Member Keppler head of the Three-Man Commission [Dreierausschuss]. This fact, however, did not entitle him to give me orders as to my relationship to the Party in Austria. After all, he could not know what was of importance to us and what was not. He would have to leave this to me. I had been in the movement without interruption for 17 years, I had been Ortsleiter, Kreisleiter, and Gauleiter and was now Landesleiter. In the course of my activities in the movement and, as concerns politics, in my capacity as leader of the National Socialist faction of the Landtag, and as member of the government of Lower Austria, I had shown my ability to master things. During the years of struggle I proved by my attitude that I am willing to fight for my Fuehrer and for the Movement. There is no need to tell me that I have to accept my Fuehrer's orders. I bring daily proof of this by my deeds. I pointed out that the things demanded of me in this particular instance are not the Fuehrer's wish, they are tactical details which must be left to my discretion. You, Party Member Keppler, cannot know that as you have far too little insight into these matters. It is I who knows what the Fuehrer wants. This fact I grasped fully when I was in conference with him and I took my clue from this in my dealings with the movement all the year round. I guided the people in this direction and it certainly was not easy. Only one who, like myself, did this for the sake of the Movement, could submit to such a change. I influenced the people to accept a long term policy for 3, 4, or more years, brought them in line with the terms on which the July agreement is based, thus changing the policy of seizing power in the state by force, to one of evolution. It can never be your task, Herr Keppler, to give me orders as to the

policy the Movement has to adopt in details, in small matters. What you demand of me here is impossible, it will lead to the same disaster as was formerly brought about by Habicht* whom in the spring of 1933 I implored just as I am now imploring you. To us the unity of the Movement means everything. Only if the Movement is united shall we be able to force the government to its knees even if we have to follow the path dictated to us by the July agreement. What Seyss is doing stands in stark contradiction and I must not and never shall permit it. I am responsible for the policy of the Movement and I request of you to bring me before the Fuehrer together with my Gauleiter. My own view represents that of the entire Movement. Your demand is so monstrous as to be completely irresponsible. Party Member Keppler, you cannot seriously believe that the Federal Chancellor will appoint Reinthaller as Reich Peasant Leader. The transfer of the National Socialist peasantry into the clerical Peasant League and thus into the Fatherland Front is a dangerous undertaking. It merely serves to split up the NSDAP and would form an explosive charge within the Movement; I never can and never shall allow this to come to pass. There is only pacification either for all or for none of us. You force the Austrian Government to put the agreement of 11 July into practice in accordance with the terms laid down in paragraph IX of the "Gentlemen's Agreement." If the Reich had not continuously made concessions to the Austrian Government, the latter would have been forced to give in long ago. Leave the home policy to us, give us the necessary ideological and material support, and I assure you, we shall succeed in getting our rights in this country. On this occasion I must once more point out to you that for me and for all of us the Fuehrer's word is law. Never shall I deviate from the course I am to follow for even a hair's breadth and I shall conduct my policy in this country only along the lines desired by the Fuehrer and in accordance with the policy of the Reich. *Herr Keppler retorted once more,* that he did not understand me, we had after all discussed everything in Vienna and now everything was changed again. What was he to do under these circumstances? I was only trying to be difficult. After some palaver in which also Dr. Veesenmayer took part, a conference between me, Dr. Keppler, and Seyss was convened for the middle of the week between 8 and 15 August at Dr. Schalk's place at Mondsee. Before leaving, Dr. Veesenmayer informed me that as of 1 October,

* Theodor Habicht, German who led Nazi agitation and uprisings in Austria as Provincial Inspector of Nazi Party for Austria, appointed by Hitler in 1931; a leader of the "Austrian Legion" formed in Germany, 1933; involved in murder of Dollfuss, July 1934 and dismissed from his post for indiscretions connected therewith. *Nazi Conspiracy and Aggression,* Supplement B, page 1690, United States Government Printing Office, Washington D. C., 1946.

the Jew Neumann would be removed from the Merkur-Bank and Dr. Fischboeck would take his place. I should try to influence the flow of investments in this direction so that no damage could be caused by a Jewish run, with which request I promised to comply.

Salzburg, 7 August 1937

[Signed] LEOPOLD

3. Letter from Defendant Keppler to Brueckner, 1 October 1937, Advising the Latter that Meeting of Leopold and Hitler was unnecessary, but that Keppler Desires Participation Should Meeting Take Place

Berlin W 8, 1 October 1937
Behrensstrasse 39a
Phone 165861

Central Office for the Economic-Political Organizations of the NSDAP
[Zentralstelle fuer die wirtschaftspolitischen Organisationen der NSDAP]
Chief: W. Keppler *Personal!*
To: [SA] Obergruppenfuehrer Brueckner
Adjutant of the Fuehrer and Reich Chancellor
Berlin W 8
Wilhelmstrasse 78

Dear Party Member Brueckner,

I received from State Secretary Lammers a copy of the letter which he wrote to you on 30 September—St. S. Nr. 3438/37A—regarding Austrian Party Leader Leopold.

Unfortunately this letter is based on a misunderstanding. In view of the present situation I do not consider it necessary that Austrian Party Leader Leopold be received by the Fuehrer. I only requested State Secretary Dr. Lammers, on suggestion of Reich Leader Bormann, in the event of an audience, to be able to participate in the conference.

May I ask you to take official note of this correction.

Heil Hitler!
Very sincerely yours,
[Signed] KEPPLER

TRANSLATION OF DOCUMENT NG–2934
PROSECUTION EXHIBIT 40

CORRESPONDENCE CONCERNING THE DEFENDANT KEPPLER'S COMPETENCY IN HANDLING MATTERS OF THE NAZI PARTY IN AUSTRIA, 26 OCTOBER TO 4 NOVEMBER 1937

I. Letter from Franz Xavier Schwarz, Treasurer of the Nazi Party, to SA Lt. General Reschny, 26 October 1937

NSDAP Reich Leadership [Reichsleitung]
[Stamp] Treasurer [Reichsschatzmeister]
To be Registered! Reference: K II Da/Scjn. 10/37
No. 4920
Munich, 26 October 1937

To The Welfare Work [Hilfswerke] Northwest*
Attention: SA Lieutenant General Reschny
Bad Godesberg on the Rhine
Subject: Budget Requests

Pursuant to order 114/37 of the Deputy of the Fuehrer dated 14 September 1937, the Chief of the Central Office for Economic-Political Organizations of the NSDAP, Reichshauptamtsleiter Party Member W. Keppler, Berlin W 8, Behrenstr. 39A, is commissioned to look after and deal with all questions pertaining to Austria, inasmuch as they concern the NSDAP.

Effective immediately, I therefore request to relinquish the hitherto adopted policy of sending the monthly budget requests directly to my Reich Budget Office but to transmit them to the above-mentioned agency. Subsequent to their examination and approval, these budget requests will be transferred to my Reich Budget Office by Party Member Keppler.

As before, you will receive the reimbursement for these budget allowances directly from my Reich Budget Office.

Heil Hitler!

[Signed] SCHWARZ
[Stamp] National Socialist Labor Party
Reich Leadership

[Stamp]
SA of the NSDAP
Handwritten: [SA] Lieutenant General 4164
28 October 1937

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* Welfare Work or Action "Northwest" was the code name for German NSDAP support of the Austrian Legion. For further information see Keppler testimony in English transcript 13020 and 13021.

2. Letter from SA Lt. General Reschny to Hitler's Adjutant, Captain Wiedemann, 28 October 1937

SA of the NSDAP
Chief of the Welfare Work Northwest
SA Lieutenant General H. Reschny

Bad Godesberg on the Rhine
28 October 1937

To Party Member Captain Wiedemann
Berlin, Reich Chancellery

Dear Party Member Wiedemann,

With reference to my telephone call of 28 October I beg you to give the enclosed letter to the Fuehrer and Reich Chancellor.

With sincere thanks and Heil Hitler,

Yours,
[Signed] RESCHNY
SA Obergruppenfuehrer

3. Letter from SA Lt. General Reschny to Hitler, 28 October 1937

SA of the NSDAP
Chief of the Welfare Work Northwest
SA Lieutenant General H. Reschny

Bad Godesberg on the Rhine
28 October 1937

To the Fuehrer and Reich Chancellor
Berlin, Reich Chancellery

My Fuehrer:

On 2 October, my Fuehrer, I was permitted to approach you in Godesberg with several requests.

To remove the difficulties arising in the fulfillment of the task ordered by you, you deemed it necessary, my Fuehrer, to arrange for a conference between yourself, the Reich Treasurer, Party Member Schwarz and Reich Leader, Party Member Bormann, including myself.

Today I received the enclosed letter from the Reich Treasurer.*

I did not receive the order No. 114/37 of 14 September 1937 issued by the Deputy of the Fuehrer, which is mentioned in this letter and I am therefore not acquainted with its contents.

The letter of the Reich Treasurer reveals however,

1. That in future I have to submit my budget requests to Party Member Keppler and that Party Member Keppler will investigate and approve these requests.

* Reference is made to Schwarz' letter of 26 October 1937, reproduced above as the first item in this document.

2. That my organization and I will in future probably be subordinate to Party Member Keppler.

To exclude difficulties with this new agency from the very start I request to invite also Party Member Keppler to the conference.

1 enclosure: letter from the Reich Treasurer.

Heil my Fuehrer!

[Signed] RESCHNY
SA Lieutenant General

4. Letter from Hitler's Adjutant to the defendant Keppler, 3 November 1937

3 November 1937

Captain Wiedemann (retired).
Wi/Bt.
Reichsamtsleiter, Party Member Keppler
Berlin W 8

Dear Party Member Keppler,

Please take note of enclosure and return after perusal. I informed the Fuehrer today of the contents of Reschny's letter. For reasons of expediency I should advise you to submit the matter to the Fuehrer in person when the Fuehrer grants an interview.

With the German salute!

Yours very truly,
Adjutant of the Fuehrer

3 enclosures

5. Letter from the defendant Keppler to Hitler's Adjutant, 4 November 1937

Central Office for the Economic-Political Organizations
of the NSDAP
Chief: W. Keppler

Berlin W 8, 4 November 1937
[Handwritten] to be filed

To Captain Wiedemann, Adjutant of the Fuehrer
Reich Chancellery, Berlin W 8

Dear Party Member Wiedemann,

Many thanks for your letter of 3 November, in which, for my information, you transmit a letter from [SA] Lieutenant General Reschny to the Fuehrer. I herewith return the document.

Heil Hitler!

Yours very truly,
[Signed] KEPPLER

Enclosures

PARTIAL TRANSLATION OF DOCUMENT NG–3578
PROSECUTION EXHIBIT 41

LETTER FROM DEFENDANT KEPPLER TO HITLER'S ADJUTANT WIEDEMANN, 27 OCTOBER 1937, CONCERNING APPROPRIATION OF FUNDS FOR PUBLISHER MEGERLE IN VIENNA

[Handwritten] Leopold
Berlin W 8, 27 October 1937
Behrenstrasse 39a
Telephone 16 58 61
Central Office for Economical-Political Organizations
of the NSDAP
Chief: W. Keppler [Handwritten] V. AUBIN
To: Captain (ret.) Wiedemann, Adjutant of the Fuehrer
Berlin W 8, Wilhelmstr. 78

Dear Party Comrade Wiedemann:

As the Fuehrer has entrusted me with the work concerning the Austrian questions in the NSDAP, Reich Treasurer Schwarz sent me your correspondence with him on the planning of the expenses of Party Comrade Dr. Megerle's office.

I have negotiated this question with the Foreign Office and the latter declared its willingness to take over one half of the present monthly budget amounting to RM 2,500. Furthermore, Reich Treasurer Schwarz on his part offered to bear the other half of the expenses, also amounting to RM 2,500. Hence this question has found its solution.

A few weeks ago, Landesleiter Leopold transmitted to you a document on conditions in Austria with the request to forward it to the Fuehrer.* I would be extremely grateful to you if you could let me have this document for my information for a short time.

Party Comrade von Ribbentrop informed me that the Fuehrer is willing to receive me in order that I may present the Austrian questions before him. I would be grateful if you could see to it that I soon get the opportunity of this discussion. Immediately after the celebration of 9 November I intend to travel to Vienna again and I would greatly wish, therefore, that the Fuehrer could receive me before this time.

Heil Hitler!
Yours devotedly,
[Signed] KEPPLER

* Reference is apparently to Leopold's Memorandum of 7 August 1937, reproduced above as a part of Document NG–3282, Prosecution Exhibit 42.

TRANSLATION OF DOCUMENT 3473–PS
PROSECUTION EXHIBIT 20

LETTER FROM THE DEFENDANT KEPPLER TO GOERING, 6 JANUARY 1938, CONCERNING THE ACTIVITIES AND POSITIONS OF SEYSS-INQUART AND CAPTAIN LEOPOLD, TOGETHER WITH NOTE CONCERNING GOERING'S DECISION ON QUESTIONS RAISED*

Central Office for Economic-Political
Organizations of the NSDAP
Chief: W. Keppler

Berlin W. 8, 6 January 1938

To Minister President, General Goering
Berlin W 8, Leipzigerstrasse 3

[Stamp]
Minister President General Goering
Arrived, 6 Jan 1938

Dear General!

State Counsellor Dr. Seyss-Inquart has sent a courier to me with the report that his negotiations with the Federal Chancellor Dr. Schuschnigg have run aground, so that he feels compelled to return the mandate entrusted to him. Dr. Seyss-Inquart desires to have a discussion with me regarding this, before he acts accordingly.

May I ask your advice, whether at this moment such a step entailing automatically also the resignation of the Federal Minister Glaise von Horstenau appears indicated or whether I should put forth efforts to postpone such an action.

Furthermore I have information to the effect that Austrian Leader Captain Leopold deposed Dr. Jury, his deputy, while the latter was here in Germany.

Captain Leopold is attempting again and again to make his own policy which is in opposition to the wishes of the decisive authorities in the Reich, and continuously obstructs the pending negotiations carried on by Dr. Seyss-Inquart, Dr. Jury and the Referent for German Folkdom [volkspolitischen Referent].

I take the liberty to pass on to you a copy of a directive of military nature which came into my hands by chance. It discloses further measures concerning the German border.

* This document was introduced in the IMT trial as Exhibit USA–581 and the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXII, pages 332–334.

May I once more ask you, General, for an audience in order to discuss my further activity in the field of economic politics.

Heil Hitler!

Yours very sincerely,

[Signed] KEPPLER

[Note covering Goering's instructions concerning the above letter]

Miss Grundtmann

Keppler should be informed by telephone:

1. He should do everything to avoid the resignation of State Counsellor Dr. Seyss-Inquart and Federal Minister Glaise von Horstenau. If some difficulties should arise, Dr. Seyss-Inquart should come to him first of all.

2. Mr. Leopold has already been ordered but has not received the permission to leave his country at the present time. The General [Goering] intends to receive him on 14 or 15 January, so that he can give him very definite instructions.

[Handwritten] Tel. 165861 settled by Telephone 7 January 38. [Signed] LIMBERGER.

Carinhall, 6 January 1938

[Signed] G. LIMBERGER

TRANSLATION OF DOCUMENT 3397-PS
PROSECUTION EXHIBIT 21

LETTER FROM THE DEFENDANT KEPPLER TO SEYSS-INQUART, 8 JANUARY 1938, TRANSMITTING GOERING'S REQUEST THAT SEYSS-INQUART NOT GIVE UP HIS POSITION IN THE AUSTRIAN GOVERNMENT*

Berlin, 8 January 1938

To State Counsellor Dr. Seyss-Inquart
Vienna, Am Hof 5

Through the Foreign Office

Most Honored State Counsellor:

In these days I had a visit from Mr. Pl., who reported the situation to us and informed us that you might be forced to give up your mandate.

In a letter I informed General Goering of the situation and Goering advises me now that I must by all means prevent this from happening, whether with your help or others. This is in

* The German text of this letter is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXII, pages 254 and 255.

the same spirit as the talks between G. [Goering] and Dr. J. [Jury]. In any case G. asks you, under no circumstances, to undertake anything in this direction before he himself has a chance to speak with you again.

I can also inform you that G. is trying to talk to Ll. [Landesleiter Leopold] to stop certain irregularities from his side.

I am very sorry that the situation is so aggravated and I myself feel that the above wish is rather embarrassing for you at this time. I must tell you frankly though, that I really did not expect a different point of view from G.'s side.

With best regards
Respectfully Yours
[Signed] KEPPLER

TRANSLATION OF DOCUMENT NG–3696
PROSECUTION EXHIBIT 44

COMMUNICATIONS AND REPORTS FROM FILES OF THE GERMAN FOREIGN OFFICE, 2 FEBRUARY TO 10 FEBRUARY 1938, CONCERNING DEVELOPMENTS IN AUSTRIA

1. Letter from the Defendant Keppler to Foreign Minister von Neurath,* 2 February 1938

Berlin W 8, 2 February 1938
Central Office of the Economic-Political Organizations
of the NSDAP.
Chief: W. Keppler

[Stamp:]
Foreign Office
Political Division IV 775
Recd. 8 February 1938

To Reich Minister Baron von Neurath
Foreign Office [Illegible initials]
3 February

[Illegible handwriting]

To Minister:

Yesterday afternoon I received new information from State Counsellor Dr. Seyss-Inquart concerning the state of his negotiations with Federal Chancellor Dr. Schuschnigg. According to this, Schuschnigg has declared himself prepared to meet below-mentioned demands of State Counsellor Dr. Seyss-Inquart:

* Von Ribbentrop succeeded Baron von Neurath as Foreign Minister on 4 February 1938.

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1. Release of all these prisoners who are still in jail as a result of the Putsch of July 1934.

2. Restitution in cases of pensions and withdrawal of pensions.

3. Removal of economic discrimination because of national socialist views.

4. Consolidation of *military,* economic and political relations to the Reich by installing personalities of the national opposition; Dr. Seyss-Inquart is to propose such personalities.

5. Thorough clarification of press questions and establishment of a real press truce.

6. Introduction of personalities of the national opposition into the various associations (gymnastic clubs, school clubs, agriculture and trade).

7. State Counsellor Dr. Seyss-Inquart will supervise the various government committees such as the election committee, the constitution committee, etc.

8. Federal Chancellor Schuschnigg had declared himself to be prepared in principle to bring about the internal equality of the national opposition over and above these points. In conclusion Dr. Seyss-Inquart reports that for the present the atmosphere is not unfavorable, and that apparently—contrary to previous expectations—there is actually a somewhat more lasting readiness to make concessions. In the course of the negotiations which are to be continued today, Dr. Seyss-Inquart will try to obtain further concessions and in particular to ensure the realization of such. As was discussed yesterday, however, Dr. Seyss-Inquart will not accept any sort of obligation without previous contact.

May I also offer you my best wishes on the occasion of your birthday today.

Heil Hitler!
Yours truly,
[Signed] KEPPLER

2. Telegram from Mackensen in Berlin to the German Embassy in Vienna, 8 February 1938

Political Div. IV 786
[Handwritten] Urgent

Berlin, 8 February 1938
Diplogerma
Vienna

Telegram in cipher.
(Secret cipher version)
citissime!

[Illegible initials]

State Secretary Keppler has informed us that the promising settlement negotiations introduced by State Counsellor Seyss-Inquart with the Austrian Federal Government in agreement with Field Marshal Goering and the Reich Foreign Minister von Ribbentrop will probably be frustrated by discussions by Leopold, who is to be supported in these by Federal Minister von Glaise-Horstenau. Keppler please ascertain facts of the case and exert every possible influence to prevent Leopold's special negotiations, particularly to prevent support of Federal Minister von Glaise-Horstenau. Telegraphic report.

MACKENSEN
[Illegible initials]
8 February

Draft of Telegram upon request by State Secretary Keppler
Dispatched 8/2 1630 [hours]

3. Telegram from von Papen in Vienna to Political Division IV* of the German Foreign Office, 8 February 1938

[Stamp]
Foreign Office
Political Division IV 807
Recd. 9 February 1938

Telegram (secret cipher version)
Vienna, 8 February 1938 2210 hours
Time of arrival: 9 February 0045 hours
No. 15 dated 8 February. In reply to 14(x) dated 8 February.
(x) Political Division IV 786

Settlement negotiations are being continued by me for the present by order of the Fuehrer and are progressing favorably. Discussion for Saturday envisaged. Rumor regarding negotiations Glaise-Leopold incorrect. On the other hand it seems to me

* The Political Division of the Foreign Office was headed by the defendant von Weizsaecker from August 1936 until March 1938. The defendant Woermann succeeded von Weizsaecker in this position in April 1938, when von Weizsaecker was made State Secretary in the Foreign Office. The Political Division, abbreviated simply as "Pol." in the contemporaneous documents, contained eleven subdivisions, a number of which are particularly important in understanding the trial and the documents reproduced herein. Political Division IV, which received the first copy of this telegram, was concerned with southeast Europe, including Austria and Czechoslovakia. Political Division II was concerned with western Europe and Political Division V with eastern Europe, including Poland, Danzig, and the Soviet Union (On the original documents these subdivisions are ordinarily abbreviated "Pol. II," "Pol. IV," and "Pol. V"). Most of the initials on the Foreign Office documents reproduced herein were either chiefs of divisions or subsections thereof. In many instances the editors have inserted in brackets the names of the chiefs of the various divisions and subdivisions designated on these documents. Readers interested in a more complete presentation of the organization of the Foreign Office are referred to Series D, volume II, "Documents of German Foreign Policy, 1918–45, From the Archives of the German Foreign Ministry," United States Government Printing Office, Washington, D. C., 1949. Appendix II of that volume, pages 1031–1040, contains a comprehensive listing of the organizational divisions of, and numerous officials in, the German Foreign Office as of 1 June 1938.

that Leopold is attempting to disrupt the promising negotiations by Party operations. Should be grateful if Field Marshal would instruct him without delay to refrain from action.

PAPEN

10 copies made
Distributed as follows:
No. 1 to Political Department IV
No. 2 to Reich Minister [von Ribbentrop]
No. 3 to State Secretary [Mackensen]
No. 4 to Chief Foreign Organization [of the Nazi Party, the defendant Bohle]
No. 5 to Ministerialdirektor Personnel Department [Dr. Pruefer]
No. 6 to Ministerialdirektor Political Department [the defendant von Weizsaecker]
No. 7 to Deputy Chief Political Department [Prince Bismarck]
No. 8 to Ministerialdirektor Economic Policy Department [Dr. Wiehl]
No. 9 to Ministerialdirektor Legal Department [Dr. Gaus]
No. 10 to Ministerialdirektor Press Department [Minister Aschmann]
This is number 1

4. Memorandum of Altenburg of the Foreign Office concerning the telegram of 8 February 1938

Fair Copy (Express letter) 9 February [3]8
Pol. IV 807

Copies

1. To State Secretary, SS Major General Keppler,
   Berlin W 8, Behrenstrasse 39 a
2. To The Office of Field Marshal Goering, Attention Brigadier General Bodenschatz
   Leipzigerstrasse 3

—Under separate cover—

Regarding 1, Information copy sent with reference to telephone conversation. Field Marshal Goering's office has been informed as requested.

BY ORDER:

Signed: ALTENBURG

Regarding 2, Information copy as requested to State Secretary SS Major General Keppler who will telephone in connection with this matter.

BY ORDER: Signed: ALTENBURG*
[Illegible initial]

Dispatched 9 February [Initials] KE
One copy each

Po. 29 Oc

5. Memorandum, 10 February 1938, from the files of the German Foreign Office concerning the state of German-Austrian relations

Pol. IV 858/38
[Illegible handwriting]

Notes on the state of present German-Austrian relations

Present relations between Germany and Austria are based upon the agreement of 11 July 1936. The Austrian Federal Government has hitherto adopted an obstructionist policy in spite of the efforts of the Reich government to hold it to its obligations. These are in the main as follows:

[Illegible handwriting].

Complete amnesty of all participants in the July Putsch of 1934, this amnesty also applies to all refugees in the Reich, raising of all economic or other discriminations (including restoration of pensions) for members of the movement in Austria. Representatives of the national opposition to be included in the work of building up a national political will within the state.

The Federal Chancellor himself is the main obstacle to the frequently promised conciliation. As he himself stated recently in the well-known interview, he and national socialism are worlds apart. He continuously endeavors to gain time by promises and half-promises. Upon the advice of State Secretary Zernatto and others, he has believed up till now that he could split the movement in Austria, in order then to absorb the willing elements in the movement into the Fatherland front as repentant sinners, and to take all the more ruthless steps against the intransigent elements. In this connection, the question of whether or not Schuschnigg's ultimate aim is to restore the Habsburg monarchy can be left open. The establishment of Section for German Folkdom [volkspolitisches Referat] in the Fatherland front is also probably supposed to serve his campaign against the Party. Moreover, he has cleverly succeeded in playing off persons such

* Legation Counsellor (Legationsrat) Dr. Altenburg was chief of the section Austria and Czechoslovakia of Political Division IV of the Political Department of the Foreign Ministry.

as Federal Minister von Glaise-Horstenau, State Counsellor Seyss-Inquart and Landesleiter Leopold, who have declared themselves willing to assist in effecting an internal reconciliation in Austria, against each other and against the Reich. The task confronting Reich policy, therefore, is clearly as follows:

Maintenance of the stability of the movement in Austria, with energetic elimination of all internal strife and factional tendencies, for the purpose of creating political pressure on the Federal Chancellor from the inside, the application of every permissible form of diplomatic pressure by the Reich from the outside, in order to effect the complete fulfillment of the agreement of 11 July 1936. Considering his character, it would require great efforts to wrest any concessions from Schuschnigg. It seems that recently Schuschnigg has become intimidated by the increasing resentment in the Reich caused by the Federal Chancellor's obstructionist tactics, accompanied by a growing unrest within the movement in Austria. At any rate, he was ready to enter into conferences with both Ambassador von Papen and State Counsellor Seyss-Inquart concerning political compromises within Austria,—conferences dealing primarily with the points mentioned at the beginning, and, till now, characterized by both gentlemen as promising. Nevertheless, it would seem prudent, on the basis of previous experience, to reserve doubts as to further developments. A prime requirement for a satisfactory result of the conferences in progress, should be closest cooperation between the men empowered by the Reich to carry on negotiations, and the exponents of the movement in Austria, in order to prevent the Federal Chancellor from playing off the Reich against the movement in Austria, and vice versa, during these conferences.

Herewith submitted to the Reich Minister

Berlin, 10 February 1938

TRANSLATION OF KEPPLER DOCUMENT 100
KEPPLER DEFENSE EXHIBIT 96

LETTER FROM THE DEFENDANT KEPPLER TO FOREIGN MINISTER VON RIBBENTROP, 7 FEBRUARY 1938, CONCERNING DISCUSSIONS BETWEEN SEYSS-INQUART AND SCHUSCHNIGG, CONTINUED DIFFICULTIES WITH THE LEADERSHIP OF THE NAZI PARTY HEADQUARTERS IN AUSTRIA, AND RELATED MATTERS

7 February 1938

To Reich Minister von Ribbentrop
Berlin W 8, Hotel Kaiserhof

Dear Ribbentrop,

As verbally arranged, I am again sending you [Dir] a written report on the state of affairs in Austria.

When in July 1937 the Fuehrer entrusted me with the Austrian political questions within the NSDAP, he expressed the wish that an attempt should be made to solve the problem by evolutionary means, as any other solution would be unthinkable in the long run. Although the chances of finding an evolutionary solution to the Austrian question seemed very unfavorable, I worked consistently in this direction. I now have the impression that the chances have improved considerably. Federal Chancellor Schuschnigg has shown a far greater inclination, especially during the last two weeks, to comply with article 9b of the agreement of 11 July (giving the National Opposition a share in the work and responsibility of the State). During the past week detailed discussions have taken place between State Counsellor Dr. Seyss-Inquart and Federal Chancellor Schuschnigg, during which Schuschnigg stated he was prepared to fulfill the following demands of Dr. Seyss-Inquart (so-called little program):

1. Release of all remaining detainees who are in prison for participation in the insurrection of July 1934.

2. Reparation in the question of the disciplinary measures concerning pensions and the loss of pensions.

3. Removal of economic discrimination resulting from a National Socialist attitude.

4. Strengthening of the military, economic and political relations with the Reich by bringing in members of the National Opposition. State Counsellor Dr. Seyss-Inquart will make suggestions in this connection.

5. Thorough cleaning up of the questions concerning the press and assuring a real peace in relations with the press.

6. Bringing members of the National Opposition into the various organizations (gymnastic clubs, German school associations, agriculture, and industry).

7. State Counsellor Dr. Seyss-Inquart will be given control over the various government committees, such as election committee, committee on constitutional problems, etc.

8. Federal Chancellor Schuschnigg stated that in principle he was ready to go farther than these points in creating equal rights within the State for the National Opposition. Furthermore, Dr. Schuschnigg hinted that he would also be prepared to go far in reshuffling his cabinet, which would allow pronounced adherents of our ideology to take over some departments, while for other departments neutrally inclined persons would be considered.

The explanation why Schuschnigg is now more prepared than formerly really to carry out the agreement of 11 July is obviously:

1. He has come to recognize clearly that the present conditions in Austria cannot go on indefinitely.

2. That the possibilities of evading pressure from the Reich by measures in the field of foreign policy are dwindling. Schuschnigg has obviously started negotiations with Hodza,* and perhaps also with Hungary, in order to create some kind of Danube Federation. The visits of the Hungarian and Yugoslavian Minister Presidents in particular will have taught him that such a policy has no longer much chance to succeed.

3. Schuschnigg is a person who finds it hard to make up his mind. Moreover, his policy depends on his periodic changes of mood.

The very detailed plans for a solution of the Austrian problem by violent means which were found when the police made a search in the Teinfaltstrasse (illegal Party office) obviously did make some impression.

Circles in the Austrian Government itself which are well disposed towards us have told me repeatedly that Schuschnigg is not in a position to allow the few open National Socialists who are members of the government to leave it. In my opinion any action must now have as object to gain such a firm footing within the government, that the Federal Chancellor will not be able to afford to allow them to leave. When this aim is achieved, and if we pursue a clever policy, we shall be able to carry our point more and more, especially as a very great part of the population is solidly behind us.

The political work of the last years, in particular of the last 6 months, was rendered extraordinarily difficult by the disunity and opposition of the Landesleitung. I have spared no pains and have exercised the greatest patience in getting Landesleiter

* Dr. Milan Hodza, Prime Minister of Czechoslovakia from 6 November 1935 to 22 September 1938. (Documents of German Foreign Policy, 1918–45, *op. cit.*, series D, vol. II, p. 1051.)

Leopold to follow the right line but these efforts were fruitless, so that I am today of the opinion—the same as Field Marshal Goering—that State Leader Leopold's dismissal is an urgent necessity.

Yesterday I was permitted to report to Field Marshal Goering on the state of Austrian affairs, and he approved the efforts and progress made by State Counsellor Dr. Seyss-Inquart. He wanted the negotiations to go on in order to get the greatest possible concessions from Schuschnigg and to receive, if possible, definite dates for the various actions planned. Field Marshal Goering, however, does not wish any direct agreement in writing to be concluded between Schuschnigg and Seyss-Inquart. He only wants a basis to be created for discussions on another level and between other people.

Field Marshal Goering wishes a discussion to take place at the Fuehrer's quarters, and he wants me to be present. It would be very nice, if it would be possible for you to be present on this occasion.

Having in view the whole political situation, if one clings to the idea of solving the whole Austrian problem by evolutionary means, I consider the present time favorable to advance a big step forward. I am convinced that, if our initial success is great enough, we shall gradually arrive at a point where we shall gain the political ascendency over Schuschnigg.

Heil Hitler!
Your [DEIN]

P. S. I would add that in my opinion it will not be possible to bring about a trade revival beneficial to both sides and to open up Austria's natural resources and mineral wealth in the interest of both parties until a currency union is created. Until this comes about, everything done so far in the economic sphere can only be fragmentary.

TRANSLATION OF KEPPLER DOCUMENT 240
KEPPLER DEFENSE EXHIBIT 217

MEMORANDUM ON THE MEETING OF HITLER AND SCHUSCHNIGG ON 12 FEBRUARY 1938; UNDATED COMMUNIQUE ON THIS MEETING; AND INDEX OF GERMAN-AUSTRIAN AGREEMENTS AS OF 27 JANUARY 1937

[Stamp] Secret Reich Matter

Pol. I * 107 Secret Reich Matter 24th copy

Memorandum on the meeting which took place on 12 February 1938

I. As a result of the exhaustive exchange of opinions between the Fuehrer and Reich Chancellor, and the Bundeskanzler Dr. Schuschnigg the following communique—enclosure 1—which is to be published in the press of both countries (Sunday press) has been issued:

II. The Bundeskanzler has promised to take the following measures regarding which he will issue a final and binding decision not later than Tuesday, 15 February.

1. The Austrian Federal Government will, as the cases arise, discuss with the Reich government through diplomatic channels any questions regarding foreign policy which affect both countries. Upon the request of the Reich, Austria will support the wishes and actions of the Reich morally, diplomatically and through press publications to the best of her ability. The Reich government, on its part, will assume the same obligation towards the Austrian Federal Government.

2. Federal Chancellor Schuschnigg declares himself willing to ask State Counsellor Dr. Seyss-Inquart to join the government and to place him in charge of security matters.

3. The Federal Chancellor declares that the Austrian National Socialist should, in principle, legally be given the opportunity to work within the framework of the Fatherland front and all the other Austrian institutions. The activities are to be performed on the basis of the constitution and on an equal footing with the other groups. State Counsellor Dr. Seyss-Inquart should have the right and the obligation to see to it, and to take the necessary measures, that the activities of the National Socialists will work out in the above-mentioned way.

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* Political Division I (Pol. I) was concerned with the League of Nations, military questions, armaments, aviation, and defense. Documents on German Foreign Policy, 1918–45, *op. cit.*, series D, volume II, page 1034.

4. The Austrian Federal Government will proclaim, immediately, a general amnesty for all persons in Austria sentenced for National Socialist activities by courts or the police. Such persons whose further stay in Austria is prejudicing the relations between the two countries will be caused to transfer their residence to the Reich after their individual cases have been examined and the consent of both governments has been given.

5. Disciplinary measures on account of National Socialist activities taken against persons with regard to their pensions, allowances and rents, especially by means of withdrawals or deductions of these payments, as well as with respect to educational matters, are to be abolished and recompensations are to be promised.

6. All economic discriminations against National Socialists are to be removed.

7. The undisturbed observance of the peace within the press to which both countries have agreed is to be guaranteed by the appointment of Dr. Wolf to an important position within the Federal Press Service.

8. The military relations between the Austrian and the German armed forces are to be guaranteed by the following measures:

a. General Janssa is to be replaced by General Boehme.

b. Officers are to be exchanged according to plan (not exceeding 100 officers).

c. Regular discussions between the general staffs.

d. Planned strengthening of the ties in the field of military science and the promotion of the feeling of comradeship.

9. All discriminatory measures against National Socialists, especially at the induction into, and the service with, the armed forces are to be revoked and abolished.

10. Intensified economic relations between the Austrian and German economy are to be prepared. For that purpose Dr. Fischboeck is to be appointed to an influential position.

The Federal Chancellor declares himself willing to carry out the measures agreed upon sub. II, 2, 4, 5, 7 until 18 February 1938 with the reservation as to the final decision agreed upon sub. II.

III. The Reich government recognizes the future Minister of the Interior Dr. Seyss-Inquart as the only person competent to carry out provision under number II, 2, 3 of this memorandum. The Reich government is to take measures designed to prevent any kind of interference into internal Austrian conditions through Reich German Party agencies. In case of disagreements concerning the interpretation of number II, 2, 3 of the above agree-

ment negotiations are to be conducted via the Minister Seyss-Inquart.

Signatures *

To Pol. I 107 Secret Reich Matter Enclosure 1

Communique

Today the Austrian Federal Chancellor Dr. Schuschnigg paid a visit to the Fuehrer and Reich Chancellor on the Obersalzberg upon the latter's invitation. He was accompanied by the Austrian State Secretary for Foreign Affairs, Dr. Guido Schmidt, and the German Ambassador von Papen. The Reich Minister for Foreign Affairs von Ribbentrop was also present.

This unofficial meeting was a result of the mutual desire to discuss all the problems arising from the relations between the German Reich and Austria.

To W III SE 800

Confidential!

Index of the German-Austrian agreements and memoranda of 27 January 1937

1. Agreement on the regulations concerning the exchange of commodities.
2. Supplementary agreement—requiring ratification—to the commercial treaty of 12 April 1930.
3. Second confidential protocol of the agreement concerning tourist traffic, dated 22 August 1936.
4. Identical correspondence regarding the protocol concerning the tourist traffic.
5. Agreement referring to the financial execution of the agreement concerning the exchange of films, dated 4 March and 20 April 1936.
6. *a.* and *b.* Correspondence concerning the balance of payments.
7. *German* Letter concerning the Alpine Montangesellschaft.
8. *German* Letter concerning the procedures at the supervisory boards [Ueberwachungsstellen].

* No "signatures," typed or otherwise, appeared on this copy.

TRANSLATION OF KEPPLER DOCUMENT 46
KEPPLER DEFENSE EXHIBIT 70

EXTRACT FROM HITLER'S SPEECH TO THE REICHSTAG, 20 FEBRUARY 1938, CONCERNING THE AGREEMENT REACHED BY HITLER AND SCHUSCHNIGG ON 12 FEBRUARY 1938*

P. 596 *From the Reichstag Speech of the Fuehrer and Chancellor of the Reich on 20 February 1938*

It gives me great pleasure, honorable deputies, to be able to inform you that in the last few days a further understanding has been reached with the country which, for many reasons, is particularly near to us. They are not only the same people but, above all, they have had the same history for a long period and a common culture that bind the Reich and German Austria.

The difficulties which arose in concluding the agreement of 11 July [1936] necessitated undertaking an attempt to eliminate misunderstandings and obstacles to a final reconciliation.

For it was clear that a situation fundamentally intolerable could one day have set the stage for a very serious catastrophe, whether it was desired or not. It is then usually no longer within people's power to check the progress of a fate that has once gained momentum as a result of carelessness or indiscretion.

I am pleased to be able to say that these views also agree with those of the Chancellor of the Austrian Federal Republic, of whom I requested a visit. The idea and purpose of this was to relieve the tension of our relationships by granting, within the framework of the other laws in force, the same rights which are also accorded to the other citizens, to that part of the German-Austrian people which according to its principles and ideological concepts, has a National Socialist outlook.

In conjunction therewith, a great liberating action should take place by means of a general amnesty; and a better understanding between the two states through a closer friendly relationship hereafter in the various spheres of possible political, personal, and economic cooperation. All this is in supplementation of the agreement of 11 July.

At this point I should like to express before the German people my sincere thanks to the Chancellor of the Austrian Federal Republic for the deep understanding and the cordial willingness with which he accepted my invitation and endeavored to find a way, with me, which lies as much in the interests of the two coun-

* The extract reproduced here constitutes the entire exhibit offered in evidence. It was taken from the book "The Dictate of Versailles. Origin—Contents—Obsolescence. A Documentary History," edited by Professor Dr. Fritz Berber and published in 1939 by the Essener Verlagsanstalt.

tries as in the interests of the entire German people—that entire German people whose sons we all are, regardless of where the cradles of our homes may be. I believe that we have thereby also made a contribution to the peace of Europe.

(Stenographic Reports from the Reichstag, 2d. session. Vol. 459, p. 41 et seq.)

PARTIAL TRANSLATION OF DOCUMENT 2949–PS PROSECUTION EXHIBIT 33

TRANSCRIPTS OF TELEPHONE CONVERSATIONS ON 11 MARCH 1938, CONCERNING DEVELOPMENTS IN AUSTRIA: BETWEEN GOERING, SEYSS-INQUART, DEFENDANTS KEPPLER AND VEESENMAYER AND OTHERS; BETWEEN DEFENDANTS DIETRICH AND KEPPLER; BETWEEN HITLER AND HIS SPECIAL ENVOY TO MUSSOLINI, PRINCE PHILIP VON HESSEN*

14 March 1938

Forschungsamt of the Reich Air Ministry
B Nr. F.A.V. 1106/38 Secret Reich Matter
To the Field Marshal

Enclosed I submit, as ordered, the copies of your telephone conversations.

BY ORDER:

[Illegible signature]

Notes Concerning the Decisive Telephone Conversations between the Field Marshal (F) and Minister Seyss-Inquart (S)

1445 hours. Call from F [Goering].

F. "How do you do, doctor? My brother-in-law, is he with you"?

S. "No."

Thereupon the conversation took approximately the following turn:

F. "How are things with you? Have you resigned, or do you have any news"?

S. "The Chancellor has canceled the elections for Sunday, and therefore he has put S. and the other gentlemen in a difficult situation. Besides having called off the elections, extensive precautionary measures are being ordered, among others curfew at 8 P.M."

* Document 2949–PS, which also contains conversations not reproduced here, was introduced in the IMT case as USA Exhibit 76. The full German text of all the conversations appears in Trial of the Major War Criminals, *op. cit.*, volume XXXI, pages 354–384.

F. replied that in his opinion the measures taken by Chancellor Schuschnigg were not satisfactory in any respect. At this moment he could not commit himself officially. F. will take a clear stand very shortly. In calling off the elections, he could see a postponement only, not a change of the present situation which had been brought about by the behavior of the Chancellor Schuschnigg in breaking the Berchtesgaden agreement.

Thereupon a conversation took place between F. and the Fuehrer.

Afterwards F. again phoned S. This conversation was held at 1505.

F. told S. that Berlin did not agree whatsoever with the decision made by Chancellor Schuschnigg, since he did not enjoy any more the confidence of our government because he had broken the Berchtesgaden Agreement, and therefore further confidence in his future actions did not exist. Consequently, the national Minister, S. and the others, are being requested to immediately hand in their resignation to the Chancellor and also to ask the Chancellor to resign. F. added that if after a period of one hour no report had come through the assumption would be made that S. would no more be in the position to phone. That would mean that the gentlemen had handed in their resignations. S. was then told to send the telegram to the Fuehrer as agreed upon. As a matter of course, an immediate commission by the Federal President for S. to form a new cabinet would follow Schuschnigg's resignation.

Telephone message by S. at 1555 hours

S. informed the Field Marshal that the Chancellor Schuschnigg was on his way to Federal President Miklas in order to hand in his resignation, as well as that of the whole cabinet. Asked by F. if, with this, the commission to form a new cabinet intended for S. was secure, S. said that he would let F. know not later than 1730.

F. replied emphatically that this, besides the resignation of the Chancellor Schuschnigg, was an absolutely firm demand.

[Illegible initials]

Telephone Conversation of Field Marshal Goering, Reich Chancellery, with the German Embassy, Vienna, 1700–1708 hours, 11 March 1938

D. [DOMBROWSKI] I have to report the following. Seyss-Inquart has talked to the Federal Chancellor until 1630 hours but he is not in a position to dissolve the Cabinet by 1730 hours because it is technically impossible.

G. [GOERING] By 1930 hours the Cabinet must be formed and several measures must have been taken. Is S. I. [Seyss-Inquart] there?

D. He is not here just now. He is in conference. That is why he sent me here to telephone you.

G. What is the message? Repeat exactly.

D. His message is that he is not in a position—(Goering interrupts. What does he have to say?) He says that he has no hesitation to allow the Party formations to come in now.

G. All that is not to the point. I want to know what is going on? Did he tell you that he is now the Chancellor?

D. Yes.

G. As just transmitted to you?

D. Yes.

G. Good, go on. What time can he form the Cabinet?

D. Possibly by 9:18 [2118].

G. The Cabinet must be formed by 7:30 [1930].

D. By 7:30 [1930].

G. For that purpose Keppler is now going to arrive.

D. To continue, the SA and SS have already been organized as auxiliary police.

G. (G. repeats the last sentence.) The demand of legalizing the Party must also be made.

D. All right.

G. All right, with all of its formations, SA, SS, Hitler Youth.

D. Yes. Field Marshal, only one thing, that the formations which are now outside the country [die in der Emigration sind] will not come at this time.*

G. They will only come during the next few days.

D. Yes. He thinks after the plebiscite has been accomplished.

G. No, no, what sort of plebiscite are you going to have?

D. Well, he believes that the program then established will be carried out by Hitler.

G. One moment, as to the plebiscite, there are certain special things, aren't there? Anyway, this plebiscite tomorrow is to be canceled.

D. That's already been taken care of. That's now out of the question.

G. Good, the Cabinet must be entirely National Socialist.

D. Good, that also has been settled, by 7:30 [1930] that must be—

G. (Interrupting) That must be reported by 7:30 [1930] and Keppler will bring you several names to be incorporated.

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* Reference is apparently to units of the Austrian Legion.

D. Very well. One thing S. I. requests regarding the organizations now outside the country [in der Emigration] is that they are to come in later and not now.

G. All right, we can talk about that—That will take a few days anyway.

D. That is his request.

G. Good.

D. That is all right then.

G. Yes. They will not come immediately. About that we will have a special talk.

D. Very well, Field Marshal.

G. Now to go on. The Party has definitely been legalized?

D. But that is—it isn't necessary to even discuss that.

G. With all of its organizations?

D. With all of its organizations within this country.

G. In uniform?

D. In uniform.

G. Good.

D. Calls attention to the fact that the SA and SS have already been on duty for one-half hour which means everything is all right.

G. Regarding the plebiscite, the special envoy will be coming down and will confer with you about the kind of plebiscite that is to be.

D. Well then, we have time in that matter.

G. Yes, there is time. Inq. [Seyess-Inquart] is of the opinion that the relationship Germany-Austria must be put on a new basis.

D. What did he mean by that? Well he means that the independence of Austria should be maintained but that everything else should be ruled on a National Socialist basis.

G. That will be a natural result. Tell him the units must come down in the next few days. That's in the interest of Seyss-Inquart, namely that he receives first-class units which are absolutely at his disposal.

D. About that he will talk with you himself.

G. All right, he can do that.

D. So that he knows who is coming down but we have a few days for that.

G. Yes, and 7:30 [1930] the report about the formed Cabinet.

D. He'll have that by then.

G. And by 7:30 [1930] he also must talk with the Fuehrer and as to the Cabinet, Keppler will bring you the names. One thing I have forgotten, Fischbeck (?) [Fischboeck], Fischbeck must have Commerce and Economics.

D. That's understood.

933764O—51——48

G. Kaltenbrunner[1] (?) is to have Security and Baehr (?) is to have the Armed Forces. The Austrian Army is to be taken by S. I. himself and you know all about the Justice Department.

D. Yes, yes.

G. Give me the name.

D. Well, your brother-in-law [Franz Hueber]. Isn't that right?

G. Yes?

D. Yes.

G. That's right and then also Fishbeck (?), isn't it?

D. Yes. That is taken care of.

G. Be careful, the press people must leave immediately and our own people.

D. Well, as to the man whom you mentioned with regard to the Security Department.

G. Kaltenbrunner. Yes. He is to get the Security Department and then mark this, immediately the press representatives.—They both talk at the same time, Dombrowski says several times, "Yes". —All right, at 1730 hours, no at 7:30—goodby.

(Much (?) [Muff][2] comes to the telephone and calls G.'s attention to the fact that Keppler will not arrive until 5:40 [1740]. G. tells M. that he has just given the names to Dombrowski over the telephone.)

M. requests to be allowed to support the suggestion that the Party formations now abroad would not be let loose until this was called for from "here".

G. Well, no, the Fuehrer wants to—that he will tell to Seyss-Inquart in person—those are the most disciplined and best units, they will come immediately under the command of Seyss-Inquart so that he has the best possible support.

M. Yes, but as to the foreign political situation—

G. (Interrupting) That will be handled. The foreign political aspect will be handled exclusively by Germany in this direction. Furthermore, Seyss-Inquart and the Fuehrer will talk about this matter, that will take quite some time anyway, until they can be dispatched. Anyway they won't come today or tomorrow or the day after tomorrow.

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[1] Ernst Kaltenbrunner at this time was leader of the SS in Austria. He was tried before the IMT and sentenced to death. In its judgment, the IMT stated the following concerning Kaltenbrunner's general positions: "In 1935 he became leader of the SS in Austria. After the Anschluss he was appointed Austrian State Secretary for Security and when this position was abolished in 1941 he was made Higher SS and Police Leader. On 30 January 1943 he was appointed Chief of the Security Police and SD and Head of the Reich Security Head Office (RSHA), a position which had been held by Heydrich until his assassination in June 1942. He held the rank of Obergruppenfuehrer in the SS."

[2] General Muff was German Military Attaché in Vienna.

Transcript of Telephone Conversation between Goering and L. Ullrich, Vienna. Berlin-Vienna 1720–1725 on 11 March 1938

U. I was just looking for the gentleman, in order to tell him myself the same thing.

G. Look, Franz, you take over the Ministry of Justice, and corresponding to the wish of the Fuehrer, you also take over for the time being the Ministry for Foreign Affairs, later on someone else will replace you in this.

U. Please, there is something else. Fischbach (?) [Fischboeck] intends, before accepting his appointment, to the Fuehrer—

G. He should not do that at this moment, it won't be necessary at all.

U. Then he will phone you, I also am against it.

G. Yes, let him call me. There is no time for it. Also he cannot afford to get for himself special favors, he must act responsibly now with an eye on history. With the Federal Chancellery, he should still reserve for himself Trade (?), Kaltenbrunner (ph.) Security, you Justice, and for the time being, Foreign [Office].

U. Does he know about it already?

G. The latter he does not yet know, I shall tell him that myself. He has to form the Cabinet immediately, he shall not fly over here, because the Cabinet has to be formed by 7:30, otherwise it's all for nothing. Otherwise, things will take their own course and very different decisions will be made then.

U. That is understood, I shall take care of it immediately.

G. And then another important factor which I forgot to mention before, but that is rather a matter of course. The Reds, who were given arms yesterday, have to be disarmed in the quickest way and just as well in a ruthless manner, that is rather a matter of course. Also make sure that he gives me a ring immediately, he shall not fly, there is no sense in doing so. Just a moment. He should call me under the following number, 125224. (Here the conversation is interrupted).—The conversation was interrupted twice, in the beginning, and at the end. It seemed that Vienna was to blame for the interruption.—

Transcript of Telephone Conversation between Goering and Seyss-Inquart, 11 March 1938, Vienna-Berlin, 1726–1731

S. The situation is like this: The Federal President has accepted the resignation but his point of view is, that no one but the Chancellor is to be blamed for Berchtesgaden and its consequences, and therefore he'd like—but he would like to entrust a

man like Ender (?) with the chancellorship. At this moment our own gentlemen (?) are in conference with him, Klawotschnik (?) [Globocnik] and so on, and report on the situation.

G. Yes, now look here: This will change the whole situation. The Federal President or some one else has to be told that this is entirely different from what we were told. Gowotschnik (?) said upon your order that you had been given the chancellorship.

S. I myself? When did he say that?

G. Just an hour ago. He said that you had the chancellorship and that also the Party had been restored, SA, SS had already taken over police duties, etc.

S. No. That is not so. I suggested to the Federal President to entrust the chancellorship to me, usually it takes 3 to 4 hours. As for the Party we still do not have the possibility to restore it but we have ordered the SA and SS to take over police duties [Ordnungsdienst].

G. Well, that won't do! Under no circumstances! The matter is in progress now, therefore, please, the Federal President has to be informed immediately that he has to turn the powers of the Federal Chancellor over to you *at once* and to accept the Cabinet like it was arranged; you as Federal Chancellor and the Army—

S. (Interrupted him) Field Marshal, just now Muehlmann who was there has arrived. May he report to you?

G. Yes.

(Dr. Muehlmann (?) takes over the conversation with G.)

M. The situation is that the Federal President still refuses persistently to give his consent and asks for official diplomatic action by the Reich. Now we three National Socialists—Rodenstock (?), Dreila (?) and I went to speak to him personally in order to make him understand that in this hopeless situation only one thing can be done by him—namely to say yes. He would not even let us see him. So far it looks as if he were not willing to give in.

G. (short conversation) Give me S. I.

S. I. continues the conversation.

G. Now remember the following: You go immediately together with Major General Muff and tell the Federal President that if the conditions which are known to you are not accepted immediately, the troops who are already stationed at and advancing to the frontier will march in tonight along the whole line, and Austria will cease to exist. Major General Muff should go with you and demand to be admitted for conference immediately. Please, do inform us immediately about Miklas' position. Tell him there is no time now for any joke. Just thru the false report we received before, action was delayed, but now the situa-

tion is that tonight the invasion will begin from all the corners of Austria. The invasion will be stopped and the troops will be held at the border only if we are informed by 7:30 that Miklas has entrusted you with the Federal Chancellorship. (Follows a sentence which is broken up)—does not matter whatever it might be, the immediate restoration of the Party with all its organizations—(again interruption) and then call out all the National Socialists all over the country. They should now be in the streets. So remember, report must be given till 7:30. Major General Muff is supposed to come along with you. I shall inform him immediately. If Miklas could not understand it in 4 hours, we shall make him understand it now in 4 minutes.

S. All right.

Transcript of Telephone Conversation between Goering and Keppler and Major General Muff (?), instead of Muff, Keppler answered the phone, 11 March 1938, Vienna-Berlin, 1828–1834

K. I just spoke to Muff. The Muff action was going on at the same time as mine was, so I did not know about it. Muff just saw the President, but he also refused. I shall call once more to find out whether or not the President wants to speak to me at this last minute.

G. Where is Muff now?

K. Muff just came down. His action was unsuccessful.

G. But, what does he have to say?

K. Well, he would not agree with it.

G. Well, then Seyss-Inquart has to dismiss him; just go upstairs again and just tell him plainly that S. I. shall call on the National Socialist guard [Nationalsozialische Wache] and in 5 minutes the troops will march in by my order.

K. (Muff is called to the phone) Muff (?) does not answer by name.

M. It is a fact that Schuschnigg tried to prove to the world that the National Socialists do not have any majority, and only by the threat of German arms—

(The conversation is interrupted for about 3 minutes, interruptions come from Vienna, G. remains at the phone.) Unknown [voice] (male).

U. [Unknown voice] Hello?

G. Is that State Secretary Keppler?

U. No. He is just in conference with the Federal Chancellor.

G. With the Federal President?

U. No, with the Federal Chancellor, they are all together, Federal President and Federal Chancellor.

G. Who is speaking?

U. Fehsemeier (?) [Veesenmayer] Adjutant of—[Keppler].

G. Has he gone upstairs?

U. Yes, just now.

G. Who is with him upstairs?

U. The Federal President [Miklas] and Federal Chancellor [Schuschnigg] and Mayor Schmidt.*

G. Yes. I hold on,—Fehsemeier, you have to hurry, we have just 3 minutes left.

U. Yes, I know.

(Goering waits a while at the phone.)

K. [Keppler] Comes first to the phone, "Well, I just saw the President again, but he has not given his consent."

G. He refused. Well, then Seyss shall call immediately.

K. He will come to the phone immediately.

(Seyss-Inquart comes to the telephone.)

G. Well, how do we stand?

S. Please, Field Marshal, yes?

G. Well, what is going on?

S. Yes, ah, the Federal President sticks to his old view-point. Now the Federal Chancellor (double name, not to be understood clearly) Weserich (?) went to see Schuschnigg in order to change his mind. He himself uses all his influence but there is no decision made yet.

G. But do you think it possible that we shall come to a decision in the next few minutes?

S. Well, the conversation cannot take longer than 5 to 10 minutes, it will not take any longer, I guess.

G. Listen, so I shall wait a few more minutes, till he comes back then you inform me via priority call [Blitzgespraech] in the Reich Chancellery, as usual, but it has to be done fast. I hardly can justify it as a matter of fact, I am not entitled to do so; if it cannot be done, then you have to take over the power; all right?

S. But if he threatens?

G. Yes.

S. Well, I see, then we shall act. Correct?

G. Call me on priority call.

Transcript of Telephone Conversation between Seyss-Inquart and Goering, 11 March 1938, Vienna-Berlin, 1957–2003

S. Dr. Schuschnigg will give the news over the radio that the Reich government has given an ultimatum.

* Reference is apparently to Richard Schmitz, then Mayor of Vienna.

G. I heard about it.

S. And the government itself has abdicated, General Schiwaski is in command of the military forces and he will draw the troops back. The gentlemen pointed out that they are waiting for the troops to march in.

G. Well, they were appointed by you?

S. No.

G. Did you dismiss them from their office?

S. No. No one was dismissed from his office but the government itself has pulled back and let matters take their course.

G. And you were not commissioned, it was refused?

S. Now like before it was refused. They expect that they are taking a chance with the invasion and expect that, if the invasion will actually take place, the executive power will be transferred to other people.

G. O.K. I shall give the order to march in and then you make sure that you get the power. Notify the leading people about the following which I shall tell you now. Everyone who offers resistance or organizes resistance will immediately be subjected to our court martial, the court martial of our invading troops. Is that clear?

S. Yes.

G. Including leading personalities. It does not make any difference.

S. Yes, they have given the order not to offer any resistance.

G. Yes, it does not matter—the Federal President did not authorize you and that also can be considered as resistance.

S. Yes.

G. Well, now you are officially authorized.

S. Yes.

G. Well, good luck, Heil Hitler.

Transcript of Telephone Conversation between Goering and General Muff (Goering himself addresses Muff, who till an hour ago was Major General, as "Lieutenant General."). German Embassy, Vienna, 11 March 1938, 2026 hrs–2032 hrs

G. Tell Seyss-Inquart the following: As we understand it the government has abdicated but he himself remained. So he should continue to stay in office, and carry out necessary measures in the name of the government. The invasion [Einmarsch] is going to happen now and we shall state that every one who put up any resistance has to face the consequences. But the Austrian [Nazi] organizations [Oesterreichische Verbaende] may join us any

time, rather they may seek protection from the German armed forces. I should try to avoid chaos.

M. Seyss will do so. He is already making a speech.

G. But he should take over the government now and should carry through things quietly. The best will be if Miklas resigns.

M. Yes, but he won't! It was very dramatic, I spoke to him almost 15 minutes. He declared that he will under no circumstances yield to force.

G. So—he will not give in to force.

M. He does not yield to force.

G. What does this mean? So he just wants to be kicked out?

M. Yes. He does not want to move.

G. Well, with 14 children one cannot move as one likes. Well, tell Seyss that he'll take over.

Transcript of Telephone Conversation between Goering and Keppler, Berlin-Vienna, 11 March 1938—2048–2054

K. I want to inform you shortly, Federal President Miklas has refused to do anything. But nevertheless, the government has ceased to function. I spoke to Schuschnigg and he said they had laid down their function and we had to act accordingly.

G. Repeat the last sentence.

K. They have laid down their functions, and Schuschnigg himself said that we had to act and (successive [sic]?) Buhler (Buhler or Buhle—very unclear)* has spoken to Seyss-Inquart over the phone, he (?) spoke over the radio, as the one who carries on affairs as Minister of the Interior.

G. (Interrupts) I have read that. Continue.

K. The old government has ordered the army not to put up any resistance. Therefore, shooting is not allowed.

G. O.K. I do not give a darn.

K. Pretty soon Landesleiter Klosse [Klausner] (?) will deliver a speech over the radio, and now (?) I want to ask you if not a prominent personality in Berlin wants to add a few words for the Austrian people?

G. Well, I do not know yet. Listen. The main thing is, that Inquart takes over all power of the government, that he keeps the radio stations occupied—

K. Well, we represent the government now.

G. Yes, that's it. You are the government. Listen carefully. The following telegram should be sent here by Seyss-Inquart:

* Reich Leader Philipp Bouhler, at this time Chief of the Fuehrer's Chancellery.

Take the notes—

"The provisional Austrian Government, which after the resignation of the Schuschnigg government has the task of again restoring law and order in Austria, sends to the German Government the urgent request for support of its task and to help it to prevent bloodshed. For this purpose it asks the German Government to send troops as soon as possible."*

K. Well, SA and SS are marching through the streets, but everything is quiet. Everything has collapsed with the professional groups [Fachschaften] (?).

G. Now listen. He has to guard the borders, so that they cannot disappear with their fortunes.

K. Yes, indeed.

G. And then,—above all, he also is responsible for the foreign policy.

K. Yes. We still do need some one for this post.

G. Well, that does not matter. Now, Seyss-Inquart has to take it over and he has to appoint a few people. He should call upon the people we recommended to him. He should form now a provisional government. It is absolutely unimportant what the Federal President may have to say.

K. Yes, they are not doing anything!

G. No, no, he has to form the government right now like he intended to do, and should inform the people abroad about it.

K. Yes.

G. He is the only one who still has power in Austria.

K. Yes.

G. Then our troops will cross the border today.

K. Yes.

G. Well. And he should send the telegram as soon as possible.

K. Will send the telegram to S. I. in the office of the Federal Chancellery.

G. Please, show him the text of the telegram and do tell him that we are asking him—well, he does not even have to send the telegram—all he needs to do is to say—agreed.

K. Yes.

G. Either call me at the Fuehrer's or at my place. Well, good luck, Heil Hitler!

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* On the following Sunday, 13 March 1938, the official newspaper of the Nazi Party declared that this telegram was actually sent by Seyss-Inquart. See Document NG-4534, Prosecution Exhibit 877, reproduced later in this section. However, that there is considerable doubt that the telegram was actually sent is indicated by such evidence as the remaining parts of the transcript of Goering's telephone conversations on 11 March 1938 (this document) with the defendant Keppler and Dietrich and by Goering's testimony before the IMT (see the extracts from Goering's testimony offered as Document Keppler 28, Keppler Defense Exhibit 106, reproduced later in this section).

Transcript of Telephone Conversation between Wilhelm Keppler and Mr. Dietrich, Berlin-Vienna, 2154, 11 March 1939

General Bodenschatz wants to speak to Keppler. Dr. Dietrich, Berlin—Keppler, Vienna.

DIETRICH: I need the telegram urgently.*

KEPPLER: Tell the Field Marshal that Seyss-Inquart agrees.

DIETRICH: This is marvelous. Thank you.

KEPPLER: Listen to the radio. News will be given.

DIETRICH: Where?

KEPPLER: From Vienna.

DIETRICH: So Seyss-Inquart agrees?

KEPPLER: Yes.

Transcript of Telephone Conversation between Adolf Hitler and Prince Philipp von Hessen, 11 March 1938—FL Zuerich 2225–2229

H. [Prince Philipp] I have just come back from Palazzo Venezia. The Duce accepted the whole thing in a very friendly manner. He sends you his regards. He had been informed from Austria, on Monday Schuschnigg gave him the news. He had then said it would be a complete impossibility, it would be a bluff, such a thing could not be done. So he was told that it was unfortunately already arranged and it could not be changed any more. Then Mussolini said that Austria is a *"fait accompli"* to him.

F. [Hitler] Then, please, tell Mussolini, I will never forget him for this.

H. Yes.

F. Never, never, never, whatever happens. I am still ready to make a quite different agreement with him.

H. Yes. I told him that, too.

F. As soon as the Austrian affair has been settled, I shall be ready to go with him through thick and thin, nothing matters.

H. Yes, my Fuehrer.

F. Listen, I shall make any agreement—I am no longer in fear of the terrible position which would have existed militarily in case we had gotten into a conflict. You may tell him that I do thank him ever so much, never, never shall I forget that.

H. Yes, my Fuehrer.

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* The defendant Dietrich refers to the proposed telegram which Goering informed the defendant Keppler was to be sent by Seyss-Inquart (See the transcript of the conversation between Goering and Keppler, 2048–2054 hours). At this time Dietrich was both Reich Press Chief of the Nazi Party and Reich Press Chief of the Reich Government. See Document NG–3081, Prosecution Exhibit 857, and Document NG–3564, Prosecution Exhibit 864, reproduced later in this section.

F. I will never forget it, whatever happens. If he should ever need any help or be in any danger, he can be convinced that I shall stick to him whatever might happen, even if the whole world were against him.

H. Yes, my Fuehrer.

F. Well—

H. Then, I would like to say that this afternoon the French envoy asked for a conference with Count Ciano, by order of his government, on account of the Austria affair. But Count Ciano refused to see him and thereupon the envoy stated that they have to disregard any further oral negotiations with Italy.

F. Yes, I thank you.

H. My Fuehrer, also I wanted to ask you do you want me to stay here, or shall I come back at once tomorrow?

F. You may stay there.

H. Shall I send the machine back?

F. No, you may keep it there.

H. Yes, I shall report again tomorrow.

F. Yes, I thank you.

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TRANSLATION OF KEPPLER DOCUMENT 5
KEPPLER DEFENSE EXHIBIT 75

EXTRACT FROM HITLER'S PROCLAMATION, 12 MARCH 1938, CONCERNING HIS REASONS FOR OFFERING "TO THE MILLIONS OF GERMANS IN AUSTRIA THE ASSISTANCE OF THE REICH"

[P. 454]

FUEHRER'S PROCLAMATION OF 12 MARCH 1938*

Germans! With deep sorrow we have watched for years the fate of our Folk comrades [Volksgenossen] in Austria.

[P. 455] In 1936 I endeavored to find a way which offered the prospect of alleviating the tragic fate of this German country, in order to attain perhaps a true reconciliation. However, the agreement of 11 July was only signed in order to be infringed the very next moment. The great majority was still without rights, its miserable position as pariah in this state had in no way been improved. He who openly identified himself with the German

* Extract from Volume V of "Weltgeschichte der Gegenwart in Dokumenten" ("World History of the Present in Documents"), edited by Werner Frauendienst; published by Essener Verlagsanstalt, 1940.

race continued to be persecuted, no matter whether he was a National Socialist street-cleaner or an old deserving army leader of the World War.

I have tried for the second time to come to an agreement. I tried to make clear to the representative of that regime who was facing me, the chosen leader of the German people, without any legitimate mandate of his own, that this state of affairs would be untenable in the long run, since the rising indignation of the Austrian people could not forever be held down by increasing force, that after a certain time the Reich too would no longer be able to watch this oppression silently.

Even today colonial questions are already made dependent on the sovereign right of the minor nations concerned, it is unbearable for 6½ million members of an old and great civilized nation to become practically subject to this law owing to the type of its regime.

I therefore wanted to achieve by a new agreement, that in this country all Germans should have the same [p. 456] rights and the same duties. This agreement was to be a fulfillment of the treaty of 11 July 1936.

A few weeks later, unfortunately, we came to realize that the men of the then Austrian Government did not think of complying with the agreement according to its meaning. In order to furnish themselves an alibi for their continuous violations of the same rights of the Austrian Germans, a plebiscite was called with which it was intended to deprive finally the majority of this country of their rights.

The modalities of these events were singular. A country which for many years had not had an election at all, which lacks all means of getting hold of the voters, calls for a plebiscite which is to take place within 3½ days.

There are neither electoral registers nor voting papers. There is no possibility of examining the electoral register, no obligation of secrecy, there is no guarantee for the impartial conduct of the plebiscite, no guarantee for the counting of votes, etc.

If these are the methods by which a regime is given the character of legality, we National Socialists in the German Reich would have been fools for 15 years! We have experienced a hundred electoral contests and have laboriously won the backing of the German people.

When the late Reich President finally called me into the government, I was the leader of by far the strongest party in the Reich. Since then I have endeavored again and again to have the legality of my position and my actions confirmed by the German people, which was done. If the methods employed by

Herr Schuschnigg were the right ones, the plebiscite in the Saar region would only have been a trick played on the people in order to render their return to the Reich more difficult.

However, we are of a different opinion here! I believe that we all can be proud of the fact that especially during this Saar region plebiscite we managed to obtain the confidence of the German people in such an incontestable manner.

Against this singular attempt at an election swindle the German people in Austria finally rebelled.

If this time, however, the regime should plan to break down the protests by force, this may result in a new civil war.

The German Reich, however, will not permit from now on that Germans should still be persecuted in this territory because they identify themselves with our nation or because they advocate certain ideas. It wants peace and order!

[P. 457]: I have, therefore, decided to offer to the millions of Germans in Austria the assistance of the Reich.

Berlin, 12 March 1938

ADOLF HITLER!

TRANSLATION OF DOCUMENT NG-4534
PROSECUTION EXHIBIT 877

EXTRACT FROM THE OFFICIAL NAZI PARTY NEWSPAPER "DER VOELKISCHER BEOBACHTER," 13 MARCH 1938, CONCERNING SCHUSCHNIGG'S RESIGNATION, THE APPOINTMENT OF SEYSS-INQUART AS AUSTRIAN CHANCELLOR, AND THE TELEGRAPHIC REQUEST OF SEYSS-INQUART THAT GERMAN TROOPS BE SENT INTO AUSTRIA*

Munich, Sunday, 13 March 1938

DER VOELKISCHER BEOBACHTER

German Austria Saved from Chaos

The German people in Austria will freely determine their destiny—All principles of the law of nations observed—Schuschnigg's betrayal of German peace created chaos—Breach of truth against his own Cabinet and deceitful farewell speech on the Vienna radio—Unbounded joy in the liberated Ostmark.

* From Berlin on 11 March 1938, the defendant Dietrich had stated in a telephone conversation with the defendant Keppler that "I need this telegram urgently." (See the transcript of the telephone conversation, 2154 hours, reproduced earlier in this section as a part of Document 2949-PS, Pros. Ex. 33.)

Federal Chancellor Seyss-Inquart Requests the Fuehrer to Send German Troops

Vienna, 11 March 1938

Today, Friday, Dr. Schuschnigg was forced to resign as a result of his betrayal of German peace.

Radio Vienna made the following announcement at 2340 hours:

The Federal President has, under the pressure of the inner-political situation, entrusted the Federal Minister Seyss-Inquart with the chancellorship for the purpose of insuring law and order.

Minister Seyss-Inquart sent the following telegram to the Fuehrer and Reich-Chancellor:

> "The provisional Austrian Government, which after the resignation of the Schuschnigg government has the task of again restoring law and order in Austria, sends to the German Government the urgent request for support of its task and to help it to prevent bloodshed. For this purpose it asks the German Government to send German troops as soon as possible."

SEYSS-INQUART

TRANSLATION OF DOCUMENT KEPPLER 28
KEPPLER DEFENSE EXHIBIT 106

EXTRACTS FROM THE TESTIMONY OF HERMANN GOERING BEFORE THE INTERNATIONAL MILITARY TRIBUNAL, 14 MARCH 1946, CONCERNING THE OCCUPATION OF AUSTRIA*

[P. 329.] GOERING: I told the Tribunal yesterday, when I gave a brief outline of my life, that I personally felt a great affinity for Austria; . . .

[P. 330.] . . . When we came to power, as I have said before, this was naturally an integral part of German policy.

The assurances which Hitler gave at that time regarding the sovereignty of Austria were no deception; they were meant seriously. At first he probably did not see any possibility. I myself was much more radical in this direction and I asked him repeatedly not to make any definite commitments regarding the Austrian question. He believed, however, that he had first of all to take Italy into consideration.

* The extracts reproduced here constitute the entire document as offered by the defense. The extracts are taken from Trial of the Major War Criminals, *op. cit.*, volume IX, pages 293–299.

[P. 332.]. . . . Then came the Berchtesgaden agreement. I was not present at this. I did not even consent to this agreement because I opposed any definite statement which lengthened this period of indecision; for me the complete union of all Germans was the only conceivable solution.

Shortly after Berchtesgaden there was the plebiscite which the then Chancellor Schuschnigg had called. This plebiscite was of itself an impossibility, a breach of the Berchtesgaden agreement. . . . . .

[P. 333.] . . . We opposed that. First of all a member of the Austrian Government who was at that moment in Germany, General von Glaise-Horstenau, was flown to Vienna in order to make clear to Schuschnigg or Seyss-Inquart—who, since Berchtesgaden, was in Schuschnigg's Cabinet—that Germany would never tolerate this provocation. At the same time troops which were stationed near the Austrian border were on the alert. That was on Friday, I believe, the eleventh. On that day I was in the Reich Chancellery, alone with the Fuehrer in his room. I heard by telephone the news that Glaise-Horstenau had arrived and made our demands known clearly and unmistakably and that these things were now being discussed. Then, as far as I remember, the answer came that the plebiscite had been called off and that Schuschnigg had agreed to it.

At this moment I had the instinctive feeling that the situation was now mobile and that now, finally, that possibility which we had long and ardently awaited was there—the possibility of bringing about a complete solution. And from this moment on I must take 100 percent responsibility for all further happenings because it was not the Fuehrer so much as I, myself, who set the pace and, even overruling the Fuehrer's misgivings, brought everything to its final development.

My telephone conversations have been read here.* I demanded spontaneously, without actually having first spoken to the Fuehrer about it, the immediate retirement of Chancellor Schuschnigg. When this was granted, I put my next demand, that now everything was ripe for the Anschluss. And that took place, as is known. . . . . .

[P. 334.] . . . For already plans had again appeared in which the Fuehrer only, as the head of the German Reich, should be simultaneously the head of German Austria; there would otherwise be a separation. That I considered intolerable. The hour had come and we should make the best use of it. . . . . .

[P. 335.] . . . The Fuehrer wanted the reasons for the march

* See the transcript of Goering's telephone conversations of 11 March 1938, Document 2949-PS, Prosecution Exhibit 33, reproduced in part earlier in this section.

into Austria to be a request by the new government of Seyss-Inquart, that is the government desired by us—that they should ask for the troops in order to maintain order in the country. I was against this. Not against the march into Austria—I was for the march under all circumstances—against only the reasons to be given. Here, there was a difference of opinion. Certainly there might be disturbances at one place, namely Vienna and Wiener-Neustadt, because some of the Austrian Marxists, who once before had started an armed uprising, were actually armed. That, however, was not of such decisive importance. It was rather of the greatest importance that German troops should march into Austria immediately in sufficient numbers to stave off any desire on the part of a neighboring country to inherit even a single Austrian village on this occasion.

I should like to emphasize that at that time Mussolini's attitude to the Austrian question had not yet crystallized, although I had worked on him the year before to that end. The Italians were still looking with longing eyes at Eastern Tyrol. The five divisions along the Brenner Pass I had not forgotten. The Hungarians talked too much about the Burgenland. The Yugoslavs once mentioned something about Carinthia, but I believe that I made it clear to them at the time that that was absurd.

So to prevent the fulfillment of these hopes once and for all, which might easily happen in such circumstances, I very definitely wanted the German troops to march into Austria proclaiming—"The Anschluss has taken place; Austria is a part of Germany and therefore in its entirety automatically and completely under the protection of the German Reich and its armed forces."

[P. 336.] . . . The Fuehrer did not want to have such a striking demonstration of foreign policy, and finally asked me to inform Seyss-Inquart to send a telegram to that effect. The fact that we were in agreement about the decisive point, the march into Austria, helps explain the telephone conversation in which I told Seyss-Inquart that he need not send a telegram, that he could do it by telephone; that would be sufficient. That was the reason. * * *

TRANSLATION OF DOCUMENT NG-3081
PROSECUTION EXHIBIT 857

HITLER ORDER TO ALL REICH LEADERS AND GAU LEADERS, 28 FEBRUARY 1934, DEFINING THE POWERS OF THE DEFENDANT DIETRICH AS REICH PRESS CHIEF OF THE NAZI PARTY

[Handwritten] *Reich Press Chief*

[Handwritten] 28 February 1934

Copy

To all the Reichsleiter and Gauleiter

Order

The Reich Press Chief of the NSDAP,* Party Member Dr. Dietrich is given the following powers:

1. He directs in my name the guiding principles for the entire *editorial work of the Party press.* In addition, as my Press Chief, he is the highest authority for all the press publications of the Party and all its agencies.

2. The editorial staffs of the Party press as well as of the Gau press offices of the NSDAP are subordinate in their work to the Reich Press Chief. He has the right to raise objections in all personnel questions.

3. All the press division, press offices, etc., within the Party or its affiliated and subsidiary organizations (political organization, SD and SS, Hitler Youth, German Labor Front) are, irrespective of their particular administrative affiliation, subordinate and responsible in their publicity work to the Reich Press Chief of the NSDAP.

4. The issuance of authority for press services and correspondences which are published by an agency of the NSDAP or which call themselves National Socialist lies within the sphere of duty of the Reich Press Chief of the NSDAP. The Reich Press Chief of the NSDAP shall take all measures necessary to the carrying out of his tasks.

Signed: ADOLF HITLER

Certified:
VON WULFEN

* The Reich Press Chief of the Nazi Party must be distinguished from the Reich Press Chief of the Reich government. However, after 26 November 1937, the defendant Dietrich held both positions. See the next following document, the order appointing Dietrich Reich Press Chief of the Reich government.

933764O—51——49

TRANSLATION OF DOCUMENT NG-3564
PROSECUTION EXHIBIT 864

HITLER ORDER, 26 NOVEMBER 1937, APPOINTING THE DEFENDANT DIETRICH REICH PRESS CHIEF AND STATE SECRETARY IN THE REICH MINISTRY FOR PUBLIC ENLIGHTENMENT AND PROPAGANDA

RK 18779 B/37 [Illegible handwriting]

Certified true copy

In the name of the Reich, I appoint the Reich Press Chief, Dr. Otto Dietrich, State Secretary in the Reich Ministry for Public Enlightenment and Propaganda and Press Chief of the Reich government, conferring upon him the status of a permanent civil servant.

I am signing this deed in the expectation that the appointed official will fulfill his official duties faithfully to his oath of allegiance and will justify the confidence bestowed upon him by this appointment. At the same time I assure him of my special protection [meinen besonderen Schutz].

Berlin, 26 November 1937

The Fuehrer and Reich Chancellor

(L. S.)

Signed: ADOLF HITLER
Signed: DR. LAMMERS
Certified true copy:
[Illegible signature]
Administrative Assistant

[Seal]
Reich Chancellery

TRANSLATION OF DOCUMENT NG–2503
PROSECUTION EXHIBIT 981

OFFICIAL ANNOUNCEMENTS AND CORRESPONDENCE CONCERNING THE INTRODUCTION OF GERMAN LAW AND ADMINISTRATION IN AUSTRIA, 18 AND 19 MARCH 1938, INCLUDING THE APPOINTMENT AND DUTIES OF THE DEFENDANT KEPPLER AS REICH PLENIPOTENTIARY FOR AUSTRIA

1. Letter from Reich Minister of Interior Frick to the Supreme Reich Authorities, 18 March 1938

Berlin, 18 March 1938
[Stamp] Confidential!

Copy
The Reich and Prussian Minister of the Interior
Nr: I, OE 19/38

Confidential!

To the Supreme Reich Authorities
Information to:
The Plenipotentiary for the Four Year Plan, Field Marshal Goering
The Deputy of the Fuehrer, Reich Minister Hess
The Prussian Minister President, Field Marshal Goering
The Prussian Finance Minister
Subject: Reunion with Austria

In agreement with the Plenipotentiary for the Four Year Plan and the Reich Minister and Chief of the Party Chancellery I should like to give the following information:

1. By virtue of Article I of the order of 16 March 1938 (Reich Law Gazette I, p. 249) the Fuehrer and Reich Chancellor appointed me as central agency for the execution of the reunion of Austria with the Reich. [Zentralstelle zur Durchfuehrung der Wiedervereinigung Oesterreichs mit dem Reich]

Pursuant to the expressed wish of the Fuehrer and Reich Chancellor, this appointment includes the authorization for the introduction of Reich laws in Austria by virtue of Article II of the law of 13 March 1938 (Reich Law Gazette I, p. 237) and my intervention in introducing German laws in Austria by virtue of any special authorization of other Supreme Reich Authorities which might be required. At the same time it includes the order of the Fuehrer and Reich Chancellor to get my participation in all organizational and personnel measures in Austria in order

to secure uniformity of such measures. I therefore request that all necessary decrees concerning introduction of Reich law regulations be submitted to me for my cosignature. I may stress that I do not intend to interefere in any way with the technical matters of the departments. The *uniform* handling of introduction of laws, however, is absolutely necessary and can only be secured if *one* single agency carries it out. To avoid misunderstanding I may expressly state that the decrees to be issued are to be signed first by the competent Reich Minister.

In connection with that may I respectfully point out that pursuant to Article I, paragraph 2 of the second decree of the Fuehrer and Reich Chancellor concerning the introduction of German Reich laws in Austria (Reich Law Gazette, I, p. 255) the modification of Austrian State law requires my consent in addition to the approval of the competent ministers.

As a matter of principle may I point out that for the time being the speed and intensity of the introduction of laws should not be exaggerated. It will be necessary first to limit ourselves to the most urgent measures. In general only such measures will be taken which are required for the execution of the *plebiscite* or which cannot be postponed in order to avoid political or economic damages. I therefore, request an examination in every single case, whether it is necessary to choose the means of a Reich decree or whether for the purposes in question the authorization of the Reich Governor [Reichsstatthalter] might suffice for the modification of the Austrian State laws and their temporary adjustment to the laws applicable to the rest of Germany. The latter procedure is to be chosen wherever possible.

The decision as to how far the speed and intensity of the introduction of laws will have to be intensified later has to be reserved to the Fuehrer.

2. As far as organizational and personnel measures are concerned, I should like you to contact me before executing important measures, especially in regard to fundamentally important directives to the Reich Governor and, in regard to all other measures, to contact the Reich Commissioner* in Vienna (compare 3 and 4). In addition I should like you, before sending ministerial employees to Austria, to get my approval and in cases of minor importance to get the consent of the Reich Commissioner. Sending people on missions to Austria has been done to such an extent that it gives rise to serious objections.

3. Jointly with the Plenipotentiary for the Four Year Plan, I have appointed SS Major General Keppler Reich Plenipotentiary

* Both "Reich Commissioner" and "Reich Plenipotentiary" are used for the German "Reichsbeauftragten."

for Austria [Reichsbeauftragten fuer Oesterreich] with offices in Vienna. (Decree of the Fuehrer and Reich Chancellor of 16 Mar. 1938 (Reich Law Gazette I, p. 249) Art. I, par. 2.)

I shall attach to the Reich Commissioner for the activities outside of the Four Year Plan, a general deputy who at the same time will handle the matters of my department.

I leave it to your decision to attach, on your part, to the Reich Commissioner, an expert for the affairs of your department. I ask you, however, to come to an agreement with me as far as selecting the person of such an expert is concerned.

4. The Reich Commissioner for Austria has the duty, in accordance with my directives, continuously to secure the uniformity of the measures for the reunion and their conformity with the aims of the Reich leadership; to keep the Reich Governor permanently informed on the wishes of the Reich Government and the Supreme Reich Authorities; to assist the Reich Governor in the control of the regional government and to point out to him points of view decisive for the execution of the reunion. He may submit suggestions to me and the Plenipotentiary for the Four Year Plan, also through me to the Supreme Reich Authorities.

He is authorized in my name to approve of all those organizational and personnel measures of the Reich departments which, because of their importance, do not require a decision of mine (compare No. 2). I therefore request that correspondence with the Reich Governor conducted without my participation be sent through the person of the Reich Commissioner.

The Reich Commissioner has to maintain closest contact with the commissioner for the plebiscite [Beauftragten fuer die Volksabstimmung] in Austria.

The special position of the Plenipotentiary for the Four Year Plan remains unchanged by this circular.

[Signed] FRICK

2. Letter from Frick and Goering to the defendant Keppler, 19 March 1938, appointing Keppler Reich Plenipotentiary for Austria and transmitting circular concerning his tasks

Berlin, 19 March 1938

The Reich Minister of the Interior
The Plenipotentiary for the Four Year Plan
St. M. Dev. 2061—I, OC. 17/38
To State Secretary Keppler
Berlin

Pursuant to Article I, paragraph 2 of the decree of 16 March 1938 (Reich Law Gazette I, p. 249), we herewith appoint you

Reich Plenipotentiary for Austria with offices in Vienna. Your tasks and authority for the field of activities outside of the Four Year Plan are described in the circular, copy of which is attached.

You are to assume your activities as soon as possible.

The Reich Minister of the Interior
Signed: FRICK

The Plenipotentiary for the Four Year Plan
Signed: GOERING

[Handwritten] Certified: [Signed] DR. STUCKART
State Secretary

3. Letter from Goering to the defendant Keppler, 19 March 1938, concerning Keppler's tasks with respect to the Four Year Plan in Austria

Berlin W 8, 19 March 1938
Leipszigerstr. 3

Minister President Field Marshal Goering, Plenipotentiary for the Four Year Plan
St. M. Dev. 2064

[Stamp] Received:
22 March 1938

Since by decree of the Fuehrer of 16 March 1938 (Reichsgesetzblatt, part I, p. 249), you were appointed Reich Plenipotentiary for Austria within the framework of the Central Office for the Incorporation of Austria, I commission you my deputy as Plenipotentiary for the Four Year Plan to assume the tasks of incorporating [Ueberleitungsarbeiten] Austria in the following fields:

1. *The work exploring Austrian soil deposits* [Arbeiten zur Erforschung der oesterreichischen Bodenschaetze], which you have already started, has to be speeded up, and be put on a more systematic and broader basis. I attach great importance to speed especially here, because depending on the results of this work, the decision concerning a number of industrial sites, which has been postponed in our plans heretofore, can now be allotted to the incorporated Austria.

2. The Aryanization of industrial enterprises in Austria will become necessary to a greater extent than in the old Reich. Your expeditious and expert execution will be extraordinarily important for a smooth introduction and frictionless functioning of the Four Year Plan. It requires, therefore, special attention and responsibility. Since you have known Austrian conditions very well for quite some time and it might be useful in many cases to

examine individual cases on the spot, I should like to ask you to put yourself at the disposal of the competent departments in that matter and to provide for uniformity in the execution. I expect you to inform me in time in more important cases.

3. The successful execution of the Four Year Plan in Austria will also depend greatly on the establishment of wage and price standards. Your activities on the spot will give you the best and most direct picture. I therefore ask you to give your special attention to these problems and to submit in time suggestions and proposals to the competent authorities within the Four Year Plan, the Reich Commissioner for Price Regulation, and the departmental group labor allocation. I expect you to keep me informed also on these matters.

This order does not intend to give a new regulation of competencies. I only wish, however, to secure for a transitory period a uniform observation in the above-mentioned fields which are important for the Four Year Plan. I reserve for myself the right to issue further instructions.

Copies are going to the Reich Minister and Chief of the Reich Chancellery, to the Reich and Prussian Minister of the Interior, to the Reich and Prussian Minister of Economics, the Reich and Prussian Minister of Labor, the departmental groups of the Four Year Plan, the Reich Governor in Austria and Gauleiter Buerckel.

Signed: GOERING

To Engineer Keppler
Berlin W 8, Behrenstr. 39a
I am sending you a copy for your information.

Signed: GOERING
Certified:
[Signed] STEINKE
Secretary in the Ministerial Chancellery [Min. Kanzl. Sekr.]

To—

a. The Reich Minister and Chief of the Reich Chancellery
b. The Reich and Prussian Minister of the Interior
c. The Reich and Prussian Minister of Economics
d. The Reich and Prussian Minister of Labor
e. The departmental groups of the Four Year Plan
f. The Reich Governor for Austria in Vienna
g. Gauleiter Buerckel in Vienna

TRANSLATION OF DOCUMENT NG-3207
PROSECUTION EXHIBIT 469

DECREE OF THE FUEHRER AND REICH CHANCELLOR ON THE APPOINTMENT OF THE REICH COMMISSIONER FOR THE REINCORPORATION OF AUSTRIA INTO THE GERMAN REICH, 23 APRIL 1938

1938 REICHSGESETZBLATT, PART I, PAGE 407

Article 1

I appoint Gauleiter Buerckel—Saarpfalz [Saar Palatinate] as Reich Commissioner for the Reincorporation of Austria into the German Reich.

Article 2

The Reich Commissioner is responsible for the political development and for carrying out the Reincorporation of Austria into the German Reich from the point of view of state, economy and culture.

Article 3

The Reich Commissioner has his office in Vienna. He is directly subordinated to me, and has to fulfill his task in accordance with my orders until 1 May 1939. His task ends on this date.

Article 4

The Reich Commissioner is authorized to give orders to the Reich Offices in Land Austria, the offices of Land Austria and of the Laender of the former Austrian Federation, and also the offices of the NSDAP, its affiliations and the groups attached to it in Land Austria. He has the right to supervise the bodies and institutes connected with public law in Land Austria.

Article 5

(1) The Reich Minister of the Interior, as central agency for carrying out the Reincorporation of Austria into the German Reich, must establish agreement with the Reich Commissioner in the measures he takes, especially in questions of legislation.

(2) The Reich Plenipotentiary for Austria [Keppler] (Par. 1, Sec. 2 of the ordinance for the law governing the Reincorporation of Austria into the German Reich dated 16 Mar. 1938—Reich Law Gazette, Vol. I, p. 249) will be attached to the Reich

Commissioner for the Reincorporation of Austria into the German Reich.

Berlin, 23 April 1938

The Fuehrer and Reich Chancellor
ADOLF HITLER

The Reich Minister of the Interior
FRICK

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

PARTIAL TRANSLATION OF DOCUMENT 3301-PS
PROSECUTION EXHIBIT 471

EXTRACTS FROM THE LAW CONCERNING THE REORGANIZATION OF GOVERNMENT AND ADMINISTRATION IN AUSTRIA, SIGNED BY HITLER, HESS, GOERING, AND THE DEFENDANTS SCHWERIN VON KROSIGK AND LAMMERS

1939 REICHSGESETZBLATT, PART I, PAGE 777

Law Concerning the Structure of the Administration of the Ostmark (Ostmark Law), 14 April 1939

Article I

The District Governments [Reichsgaue]

Section 1

(1) Within the territory of the State of Austria, the following Reich districts are established:
The Reichsgau Vienna, comprising the city of Vienna.*

* * * * * * *

Section 2

The Reichsgaue are governmental administrative districts and self administrative bodies.

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* Section 1 (1) of the law (not all of which is introduced as part of this document) continues as follows:

The Reichsgau Carinthia, consisting of the former Austrian state of Carinthia.

The Administration of the Reichsgau has its seat in Klagenfurt.

The Reichsgau Lower Danube, consisting of the former Austrian state of Lower Austria. The administration of the Reichsgau has its seat in Krems on the Danube.

The Reichsgau Upper Danube, consisting of the former Austrian state Upper Austria. The administration of the Reichsgau has its seat in Linz.

The Reichsgau Salzburg, consisting of the former Austrian state of Salzburg. The administration of the Reichsgau Salzburg has its seat in Salzburg.

The Reichsgau Styria, consisting of the former Austrian state of Styria. The administration of the Reichsgau has its seat in Graz.

The Reichsgau Tyrol, consisting of the former Austrian state of Tyrol. The administration of the Reichsgau has its seat in Innsbruck.

(2) The former Austrian state of Vorarlberg forms for the time being its own district of self-administration, with a self-administering body headed by the Reich Commissioner of Tyrol.

Section 3

(1) At the head of the Reichsgau is the Reich Governor.

(2) The Reich Governor is authorized to ask for information from the authorities of the Reich special administrations [Reichssonderverwaltungen] and other public legal corporations within the Reichsgau and to bring to their attention the essential points of view and necessary measures. He can give them orders for his district within the frame of the laws and within the directions of the Supreme Reich Authorities; the competent Supreme Reich Authorities are authorized to cancel the orders of the Reich Governor.

(3) The powers under paragraph 2 cannot be transferred to government employees attached to him.

Section 4

(1) The Reich Governor directs, on the Reichsgau level, the governmental administration as Reich administration under the supervision of the Reich Minister of the Interior and according to the directives of the Reich Ministers within their field of competence [Geschaeftsbereich].

(2) The authorities of the Reich special administrations within the Reichsgau are attached to the Reich Governor's office with the exception of the Reich Justice, Reich Finance, Reich Railway, and Reich Postal Administrations. The Reich Governor heads those administrations and is represented within them by their authorized directors.

* * * * * * *

(5) The tasks and authorities of the supreme organs of the former Austrian provinces are transferred to the Reich Governor, as far as the Reich Minister of the Interior in agreement with the appropriate Supreme Reich Authorities does not transfer those authorities to them.

Section 5

(1) The Reich Governor by decree, with the consent of the Reich Minister involved and of the Reich Minister of the Interior as well, can make laws, so far as this does not contradict superior Reich Law.

(2) The authority of the Reich Governor in accordance with the Reichsstatthalter Law of 30 January 1935 (Reichsgesetzblatt I, p. 65) is not changed hereby.

Section 6

(1) The Reich Governor leads [fuehrt] the self-administration of the Reichsgau under the supervision of the Reich Minister of the Interior.

(2) As a self-administrative body, the Reichsgau has to fulfill public tasks under its own responsibility.

(3) The Reichsgau is authorized to regulate its own affairs by means of statute.

(4) District councillors [Gauraete] are at the disposal of the Reich Governor for the area of self-administration.

Section 7

The Reich Governor is represented within the governmental administration [staatlichen Verwaltung] by a general representative with official title, Regierungspraesident, who is a direct Reich employee, and within the self-administration [Selbstverwaltung] by a general representative with the title Gauhauptmann; he is an official of the Reichsgau as a self-administrative body.

Section 8

(1) The administration of the Reichsgau Vienna is divided into the governmental administration and into the municipal administration.

(2) The Reichsgau Vienna as a self-administrative body is a united municipality [Einheitsgemeinde] and has at the same time the tasks of the municipal associations [Gemeindeverbaende] of a higher order.

(3) The Reich Governor is represented within the governmental administration by a general representative with the official title Regierungspraesident and within the municipal-administration by the Erster Beigeordneter with the official title of Mayor [Buergermeister].

* * * * * * *

Article III

Closing Regulations [Schlussbestimmungen].

Section 13

* * * * * * *

Section 14

(1) The Reichsgaue must be established by 30 September 1939.

(2) The Reichsgaue are legal successors of the former Austrian provinces in accordance with section 1.

* * * * * * *

Section 18

The Reich Minister of the Interior issues the necessary laws and legal and administrative regulations necessary for the execution and completion of this law.

This law is effective on 1 May 1939.

Berchtesgaden, 14 April 1939

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Minister of the Interior
FRICK
The Deputy to the Fuehrer
R. HESS
The Plenipotentiary for the Four Year Plan
GOERING
Field Marshal, Minister President of Prussia
The Reich Minister of Finance
COUNT SCHWERIN VON KROSIGK
The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS THEODORE HORNBOSTEL*

DIRECT EXAMINATION

MR. POSNER: Mr. Hornbostel, would you give your full name to the Court?

WITNESS HORNBOSTEL: Theodore Hornbostel.

Q. And what is your age, Mr. Hornbostel?

A. I was born on 9 January 1889.

Q. What position did you maintain in the Austrian Government?

A. Since 1930 I was at the head of the Political Department of the Austrian Foreign Office.

Q. From 1930 until what date was that?

A. Until 11 March 1938.

Q. As chief of the Political Department of the Austrian Foreign Office, what were your duties during that period of time?

A. My task consisted of gathering all the information from different sources, especially the reports of the Austrian Legations and consulates in the foreign countries. Besides I got information from the different Austrian departments, especially the State Police.

Q. You received these foreign reports from the different Austrian Legations and consulates abroad, from outside of Austria; is that correct?

A. That's right.

Q. You also received reports from within Austria, from the various Austrian government agencies and so forth?

* Complete testimony is recorded in mimeographed transcript, 8 January 1948, pages 264–310.

A. That is exact.

Q. Upon receipt of this information from without Austria, from your Austrian Legations and consulates abroad, or from any other agencies, what did you do with this information? What did you do with these reports?

A. I had to study the material and then I had to inform, about the principal questions, my special chiefs who were the Federal Chancellor firstly, and since 1936 the Foreign Minister, Dr. Guido Schmidt.

* * * * * * *

Q. Moving along to 9, 10, and 11 March 1938, where were you at that period of time?

A. From the very date of the Berchtesgaden arrangement between Hitler and Schuschnigg,* the political situation inside Austria grew very critical. This meant for me and other responsible officials that our task was even more difficult than before and I, myself, and my colleagues, had even night service during the last days of Austrian independence. On 9 March was when the real crisis started. The first event was Mr. Schuschnigg's broadcast when he decided to order a plebiscite in Austria. From that very moment we were especially keen to see the reaction in Germany and in the rest of Europe and obviously this announcement by Mr. Schuschnigg gave the start to the last crisis.

Q. Following this announcement of a plebiscite on 9 March did you officially receive any information on 10 or 11 March concerning movements by the Germans in any way?

A. Well, I remember that from 9 March we had regular reports nearly every hour from the police about different riots going on in Styria, in Upper Austria, and so on. The 10th of March we were rather surprised to notice that the German press hadn't reacted at all on Mr. Schuschnigg's proposal or decision to make a plebiscite but on the night of 10 to 11 [March] I was informed by the police and by the War Office that rather massive movements of German troops had been observed beyond the Austrian-German boundaries in Upper Austria and in Tyrol. On the same night my chief, Dr. Schmidt, was informed in the same way, and we decided to go to our office as soon as possible, to try to contact as quickly as possible the Foreign Chancelleries of the Great Powers.

Q. Did you on the morning of 11 March return to your office in the Chancellery?

A. Yes.

Q. Was this at an early hour in the morning on 11 March?

* The witness refers to the meeting of Hitler and Schuschnigg on 12 February 1938. See Keppler Document 240, Keppler Defense Exhibit 217, reproduced earlier in this section.

A. It was very early in the morning. As far as I remember, it must have been about 6 o'clock.

Q. Did anything occur to your knowledge along about 9 or 10 o'clock that morning when you were in your office?

A. Well, I remember that the first news we got in the morning was that Mr. Papen had left Vienna by plane, from Aspern. Then immediately afterwards I was informed, supposedly by Dr. Schmidt himself, that Glaise-Horstenau and Seyss-Inquart had a somewhat excited conversation with Mr. Schuschnigg because Glaise-Horstenau had arrived from Berlin where he had talked to Hitler.

Q. On that same morning did you receive notice of the arrival of any other people in which we are interested?

A. Yes, that's right. I know that in the forenoon I got personally the information from the police that Mr. Keppler and Veesenmayer had arrived in Vienna and had gone to the German Legation in the Metternich Gasse.

Q. Later on the same day, 11 March 1938, were Mr. Keppler and Mr. Veesenmayer in the chancellery building?

A. Yes. I remember—I had been informed by Dr. Schmidt regularly about the different phases of the critical situation which developed on the first floor in the Federal Chancellery between [sic] Schuschnigg, and then I heard of the different ultimatums presented.

* * * * * * *

Q. And now on this particular day, 11 March 1938, were you in your office or were you outside? Did you remain in your office during most of that day?

A. I remember that I didn't leave the chancellery not even a minute because I was ordered already in the morning to contact Paris, Rome, and London and I had different talks with our ministers in these respective towns.

Q. What was the purpose of this order that you received in the morning on the morning of the 11th to contact these foreign countries?

A. The purpose was to get those foreign chancelleries informed about our difficult situation. Especially Rome had to be questioned—what Mussolini and Count Ciano thought about the situation and if they were willing to come to our aid.

Q. As a result of your duties to contact these foreign countries at this critical stage, did you receive information from anyone in the chancellery as to what was going on in various other rooms of the same building?

A. Yes. I got close information every 10 minutes by Dr. Schmidt himself or by the telephone from the Chancellor be-

cause they gave me supplements to my order to give notice of this development to the different Great Power governments.

Q. And included in these notices and telephone calls from your superior officials was any mention made of the presence and activities of Keppler and Veesenmayer?

A. Yes. I remember that I was informed by Dr. Schmidt that the President, Miklas, had received Dr. Keppler in audience and that Dr. Keppler served to Dr. Miklas an ultimatum, that Dr. Miklas had refused it, and that the situation, of course, grew worse every minute; and those gentlemen pressed on me to try to get in personal touch on the telephone with Mussolini himself and as Mussolini had left Rome that very day, I endeavored to get Ciano at the other end of the telephone.

Q. Now pardon me, Mr. Hornbostel. You originally stated that in the normal course of your official business your contacts with foreign representatives were made through your own representatives in these respective foreign countries.

A. Yes, that's right.

Q. And do you now say that on this particular day, 11 March 1938, you personally tried to contact Mussolini in Rome?

A. Yes, that is right. The situation was so critical that I got the straight order from Dr. Schuschnigg and Schmidt to try to talk directly with Mussolini or Ciano.

Q. Were you successful in contacting Mussolini at that time?

A. No. No, I couldn't get Mussolini at all and late in the evening, about 6 o'clock, I got Ciano who gave a most evasive answer to my appeal.

Q. Then in order for you to contact these various governments—you mentioned Rome, Paris, and London—you necessarily had to receive these reports of what was going on in the chancellery building on 11 March 1938.

A. That is exactly so. Yes, sir.

Q. You were informed concerning this same matter that Keppler and Veesenmayer were both present in the chancellery.

A. Yes. Yes, that's right.

Q. That they were conducting negotiations and that Keppler had served an ultimatum on President Miklas?

A. So. That's right.

Q. When in the evening of 11 March 1938, did you leave the chancellery building?

A. I left during the night. I suppose it was something like 2 a.m. Friday.

Q. And where did you proceed from the chancellery building on that particular evening?

A. When President Miklas had appointed or had nominated

Seyss-Inquart as Federal Chancellor, the President and Schuschnigg, Schmidt and myself were invited by Seyss-Inquart to leave the chancellery building and I drove home with Dr. Schmidt and Schuschnigg and I, of course, was the last to leave the car at my flat after two o'clock in the night.

Q. And did you remain at your flat during the evening of 11 March 1938?

A. Half an hour after my arrival in my flat I was arrested by an agent of the Seyss-Inquart government, a man called Dr. Muehlmann.

Q. And what happened when this Dr. Muehlmann spoke to you at your flat that evening?

A. He arrived with two or three armed illegal Nazi men, asked me not to use my telephone and to allow those three men to stay in my drawing room until he would send me new orders.

Q. And what new orders followed that discussion of Dr. Muehlmann and yourself?

A. I was kept in this kind of home arrest for 2 days and was officially arrested in the evening of 13 March, Sunday.

Q. And where did you proceed to at that time upon your arrest?

A. I was brought to the police prison in Vienna and after 2 weeks I was sent to the concentration camp of Dachau with about 160 different personalities, officials and politicians.

Q. And what date approximately was this that you were sent to the Dachau concentration camp?

A. It was on 1 April.

Q. 1938?

A. 1938.

Q. How long did you remain in the Dachau concentration camp?

A. I was released from the concentration camp in Buchenwald on 15 May 1943. All in all I was arrested 5 years and 2 months.

Q. In the concentration camp, is that correct?

A. In the concentration camp, correct.

MR. POSNER: Thank you, Mr. Hornbostel. That will be all.

CROSS-EXAMINATION

DR. SCHUBERT: Witness, you mentioned that the most important question since 1933 had been the German question.

WITNESS HORNBOSTEL: Yes.

Q. For what reason was this the case?

A. The reason was that we, that is the Austrian Federal Government, were correctly and accurately informed about the intentions of the National Socialist Government. We knew that the Nazi Party had as one of its main aims the nazification of

Austria and the incorporation of Austria into the German Reich, which would presumably result from it.

Q. Witness, when was the Nazi Party banned in Austria?

A. As far as I remember, it was in June 1933.

Q. The ban then was issued a considerable time before Dollfuss was murdered?

A. Yes.

Q. Were there any parties in Austria at all?

A. No, not at that time. At that time there was only the so-called Fatherland Front.

Q. If I understand you rightly, in Austria too, there was a so-called authoritarian regime?

A. Yes.

Q. When did the last elections for popular representation take place in Austria?

A. As far as I remember, in 1930, in the autumn of 1930.

Q. Surely, Witness, you knew the agreement which was reached in 1936 between Germany and Austria?

A. Yes.

Q. Was this agreement to relieve the tension on both sides?

A. Yes.

Q. Do you know that on the basis of this agreement, a committee, which was to be staffed by an equal number of representatives from both sides, was to meet from time to time?

A. Yes. That is right.

Q. In order to remove difficulties?

A. Yes.

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Q. Witness, let us pass to the second subject of your testimony—the events of 9 to 11 March 1938.

A. Yes.

Q. You said that the political situation in Austria had become very critical at the time and you connected this up with a plebiscite. Who ordered this plebiscite?

A. Federal Chancellor Schuschnigg.

Q. And when was it ordered?

A. On the evening of 9 March, as I have already mentioned.

Q. And what was the plebiscite to be about?

A. The idea of the plebiscite was to decide whether the Austrian people approved the policy followed by Schuschnigg's government. It was a somewhat complicated formulation—two or three questions which I no longer remember as to absolute detail. I think in the course of the Schmidt trial the actual documents were submitted. The general sense was whether the people approved the policy followed by Schuschnigg, which included the Berchtesgaden Agreement, as was clearly stated.

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Q. In the plebiscite slogans, Witness, was it not expressly mentioned that the Austrian people were to decide in favor of an independent Austria?

A. Yes, of course, that was a part of the Schuschnigg program on which the people had to comment.

Q. So a line was to be drawn between Germany and Austria?

A. Not a line between Germany and Austria but a clarification of the internal position within Austria.

Q. Did you, Witness, before the announcement of this decision, hear about it from Schuschnigg?

A. The question of the plebiscite was not just created on the 9th. The problem whether the Federal Government should not take the step of a plebiscite had been raised for the first time years before, even in Dollfuss' time, in order to clarify once and for all, whether the Federal Government—first Dollfuss and then Schuschnigg—in actual fact had the majority behind it; because the Austrian Federal Government at the time, in Berchtesgaden by Hitler himself, and by other leading members of the Nazi Party, was reproached with the fact that the Federal Government was only in the position to keep the pro-Nazi population in favor of an Anschluss back by means of bayonets. This was echoed abroad, too, so the idea lay close at hand that a plebiscite should be held, in order to bring about an absolutely clear position about the majority conditions within Austria.

Q. Witness, were you for or against a plebiscite at that time?

A. From 1912, I had been a civil servant. I was certainly consulted in factual matters of foreign policy but I was never asked to give a vote, nor would I ever have given one unasked.

Q. Didn't you, either officially or publicly, comment on the question of the Anschluss?

A. In the Anschluss matter I was officially ordered to observe a special policy and this policy always corresponded to that laid down by the Federal Government, that is, my superiors. This policy, contained in point one, the complete safeguarding of Austrian independence, which shows that I had been ordered to do everything to prevent an Anschluss. This view I expressed in talks and in writing and occasionally in addresses to the Fatherland Front.

Q. Witness, this view corresponded to your own personal opinion, didn't it?

A. Excuse me. That is my private affair.

Q. Am I to take that to mean yes or no?

A. With reference to my personal attitude to this question, I think the fate to which the Nazi Party sentenced me is answer enough.

Q. Witness, did you not, as early as 1919, when both the Austrian and German National Assembly decided to unite Germany and Austria, comment against this?

A. I did not have any comments to make against this because, as diplomatic functionary, I was abroad and was therefore not exercising the right to vote.

Q. Can you say what Austrian party was in particular in favor of the Anschluss in 1919?

A. From my historical studies and from following the policy of the day, I can, with good conscience, tell you that it was all parties.

Q. Witness, I am coming back to the plebiscite, from which we started.

A. Yes.

Q. Do you know that according to the provisions, that is, the technical provisions issued for this plebiscite, the electors had to vote in public?

A. No, and that is not true, either. I only remember that the plebiscite was certainly not planned as a public one. There was one difficulty, which was that, in these election districts, to the infuriation of Glaise-Horstenau and also of Seyss-Inquart and all illegal circles, these people were not allowed to send any representatives of whom they approved; and, as far as I remember, some difficulties arose out of this between Schuschnigg and Seyss-Inquart, about which I am not informed in detail.

Q. If I understand you rightly, these election committees were formed only of [representatives of the] the Fatherland Front?

A. Yes, that's it.

Q. Did you not consider this an infringement of the Berchtesgaden Agreement and the Agreement of 1936?

A. No. For the simple reason that the July Agreement of 1936 expressly excluded that the National Socialist Party was to have any legal position whatsoever and that the German Reich was not to interfere in any way in our internal affairs, any more than Austria could interfere with Nazi affairs and political affairs in the Reich. This same July agreement was expressly confirmed in the Berchtesgaden Agreement. In my opinion, therefore, which was shared by all my chiefs, it was absolutely clear that a plebiscite could in no way injure the neighborly rights of Germany.

Q. Witness, are you not also of the opinion that an agreement has to be interpreted not only according to the law but also according to the spirit?

A. Yes, certainly.

Q. Don't you consider that the spirit of both the agreements concluded contradicts what you have just said?

A. In no way whatsoever.

Q. Another question about the plebiscite. As far as I am informed, for plebiscites of this kind, time limits are set by the Austrian Constitution. This plebiscite was to take place at very short notice.

A. Yes. It was to take place on 13 March. I think that was the time limit, as far as I remember.

Q. The 13th of March was a Sunday, wasn't it?

A. Yes.

Q. And it was announced on 9 March?

A. Yes.

Q. So there were to be four days between the announcement and the actual plebiscite itself?

A. That is quite right.

Q. And no party elections had taken place in Austria since 1930?

A. No, none.

Q. So, within 4 days all preparations for the election, which had not taken place for 8 years, were to be carried out?

A. Yes. The election apparatus which was necessary did exist. There were electoral lists; there were electoral districts; and the whole organization was in existence. Preliminary work had been done for it in past years. For the rest, the whole question, insofar as it concerns the election as an internal matter, was entirely outside my official competency at the time, so that a discussion of constitutional law and administrative law concerning these matters between the two of us in this court is out of place, because I was in no way authorized to take any special interest in these matters.

* * * * * * *

Q. You then described how, on 11 March, in the morning you were already in the Foreign Office and wanted to establish telephone contacts with your ministers abroad. You have reported to us the reaction you got from Ciano in Rome. Do you know, that with reference to this plebiscite, that this had been discussed in advance with Mussolini?

A. Yes, of course, I knew it because even at that time I knew the whole story. The Federal Chancellor, Schuschnigg, a few days after the Berchtesgaden meeting, dictated a very detailed report of his conversation [with Hitler] which he sent to Mussolini by a personal representative who also enjoyed Mussolini's full confidence, and in this way informed Mussolini of the whole Berchtesgaden story and this confidential representative was to report on Mussolini's reaction as quickly as possible. This gentleman had free access to Mussolini and had detailed talks with

Mussolini. At the beginning of March and on 9 March, the very day when the Chancellor made his announcement at Innsbruck, at a meeting, on that day he arrived back in Vienna and the result of Mussolini's reaction was therefore reported to my chief, Dr. Guido Schmidt, and myself in Schuschnigg's absence.

Mussolini's attitude was, as is shown both by the Guido Schmidt trial and by the countless books written on this subject, in a few words the following: Mussolini expressed his special recognition to Herr Schuschnigg about the courageous attitude he had maintained towards Hitler and the successes which he managed to get out of him. These successes were, that the program demanded by Hitler had been shortened by a number of points which had affected us very adversely. With reference to the question of the plebiscite which Schuschnigg had also mentioned to Mussolini in this report, Mussolini expressed himself with marked lack of enthusiasm. He thought that there was a great risk in it because, although he did not doubt that the result would be in favor of Schuschnigg and against Hitler, he nevertheless asked himself what Hitler's attitude would be to such a defeat which he himself would have caused by his demand to Schuschnigg. That is why Mussolini thought that it would be more clever to postpone this question of a plebiscite and not bring about a crisis in the situation by taking this decisive step.

Q. Witness, when you talked to Count Ciano on the telephone did you have the orders, if necessary, to ask Italy to take the step of armed interference?

A. My order was, first of all, to inform the cabinets of the major foreign powers. On the basis of our relations with Italy of a personal nature and by treaty, Rome, of course, took precedence. My orders, therefore, were to call up Mussolini and if I got him on the line I was to connect him with Schuschnigg if possible. If I couldn't reach Mussolini I was to inform Ciano to ask him to report to Mussolini immediately and to tell me of Mussolini's reaction to the news.

The fact that implicitly some protective measure, whether of a diplomatic or military nature was hoped for, is a matter of course. In this connection I need only refer to the events of July 1934 when, as is well known, Mussolini's reaction to Dollfuss' murder resulted in the transfer of quite a considerable number of troops to the Brenner Pass. This was sufficient to suppress a Nazi putsch at that time.

Q. And the same as you said just now, I suppose, applies to your inquiries in Paris and London?

A. Not the same thing, for the simple reason, that we did not have political treaties with London and Paris. The answers

from Paris and London accordingly to the effect that both Cabinets were prepared to take the most energetic steps in Berlin if Italy—please don't interpret this absolutely legally—but if Italy, so to speak, would participate as an ally.

Q. Witness, do you still remember reports from your Ambassador Tauchitz in Berlin concerning talks with the British Ambassador in Berlin, Henderson?

A. Yes.

Q. In which Henderson, if I may put it like this, was rather in favor of an Anschluss?

A. Quite right.

Q. You then mentioned that it had been reported to you that Miklas had received the defendant Keppler and that Keppler had handed over an ultimatum?

A. Yes.

Q. Do you know that the German Military Attaché, Muff, also went to see President Miklas at that time?

A. Yes. That was also reported to me.

Q. Do you know that Muff handed over an ultimatum?

A. I don't know if he handed it over. I only know, if I remember that phase correctly, that Schmidt—I think it was Schmidt—told me, "Now, Muff has been here, too, and on behalf of Goering has threatened us with military measures." You can call it an ultimatum insofar as allegedly a time limit had been set for these measures. This time limit, I think, was 8:00 a.m. on 12 March.

Q. Who got there first, Witness, Keppler or Muff?

A. As far as I remember, Keppler came first and then Muff.

Q. And Keppler was in Vienna already on the morning of the 11th of March?

A. I know that positively from the police reports.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT KEPPLER*

DIRECT EXAMINATION

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DR. SCHUBERT (counsel for defendant Keppler): Herr Keppler, be good enough to tell us when you really came into more intensive contact with foreign policy?

DEFENDANT KEPPLER: Well, that was a very slow process. On 11 July 1936, a treaty was concluded between the Reich and

* Further extracts from the testimony of defendant Keppler, including the testimony just preceding the first extract here, are reproduced earlier in section VI B and below in section VI D, and in section IX E 4, volume XIII.

Austria for purposes of pacification [Befriedigung], and in an additional treaty provisions had been made that a German-Austrian committee was to be instituted in order to favor and implement this drive for pacification. One day when I was vacationing I received a telephone call by order of the Fuehrer and he had me notified of this matter and he requested me to hold myself available in order to take part in this committee. As I heard later on it had been the Fuehrer's intention to call in an older Party member into this commission whose work would be of greater force in the Party as well as in Austria.

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Q. The witness Hornbostel has testified here that if you took any part at all in the work of the commission, you only dealt with economic questions at best. Is that right?

A. I can't recollect at all that economic questions were actually discussed at the time. It may be possible that they are touched upon in passing, but I personally attended all important meetings dealing with political questions.

Q. As far as the work of this commission is concerned I have introduced three documents in my defense document book 3. I am referring to Exhibits 93, 94,[1] and 108.[2]

PRESIDING JUDGE CHRISTIANSON: Which one of your books are you referring to now?

DR. SCHUBERT: Document book 3, Your Honors.

PRESIDING JUDGE CHRISTIANSON: Thank you. Go ahead.

DR. SCHUBERT: In connection with the work of the commission, did you come to meet the then Federal Chancellor of Austria, Schuschnigg?

A. Yes, I came to make his acquaintance too. The meetings of the committee had been fixed upon in such a manner that we were to meet Schuschnigg in Vienna. But when we came there he was absent and then by certain artificial means we postponed the meetings of the conference in order to wait until he returned.

* * * * * * *

Q. Now, was the result of the conference meetings in Vienna reported to Hitler by you?

A. When the commission meetings terminated,[3] Ambassador von Papen and I received the order to return via Berchtesgaden and to report to the Fuehrer concerning the course of the conference meetings. It was not possible for us to report on many

[1] Document Keppler 98, Keppler Defense Exhibit 93, and Document Keppler 115, Keppler Defense Exhibit 94, are reproduced earlier in this section.

[2] Document Keppler 8, Keppler Defense Exhibit 108, reproduced later in this section.

[3] These meetings were held on 8 and 9 July 1937. See the reports of these meetings by the defendant von Weizsaecker (Doc. Keppler 98, Keppler Def. Ex. 93, and Doc. Keppler 115, Keppler Def. Ex. 94), reproduced earlier in this section.

matters because as such, not very much was handled in the course of the sessions. But von Papen used the occasion to bring up, with the Fuehrer, that there were permanent disturbances of the peace policy because a permanent close contact had again been taken up between the Party agency in Austria and the Party agencies in the Reich. In 1934 already the Fuehrer had drawn a very distinctive line between the Party in Austria and the Party in the Reich but the same efforts made in both camps made it possible that all possible threads were spun from one camp to the other. Von Papen requested the Fuehrer to see to it that a stop was put to this and thereupon Hitler ordered me to take over the entire work referring to the Austrian question on behalf of the Nazi Party of Germany, and particularly Hitler ordered that any contact between the Party in Austria and the Party in Germany was to be prohibited under severe punishment. I would like to point out that already at an earlier period of time, by means of the Auslandsorganisation [AO], the German Reich nationals in Austria had been prohibited from interfering in any Austrian domestic affairs or interfering in any matters referring to the Austrian Party.

* * * * * * *

Q. Herr Keppler, my last question to you referred to the attitude that Hitler took to the result of the commission conferences in Vienna in July of 1937. Your answer, if I understood you correctly, was to the effect that Hitler was in favor of relaxation of the tension and of an evolutionary development, and he also referred to the fact that an abrupt solution of the problem would entail the danger of bloodshed. Is that what I understood you to say?

A. Yes, correct.

Q. On that occasion did Hitler also say anything to the effect that he desired this policy in Austria for reasons of foreign policy?

JUDGE MAGUIRE, PRESIDING: Witness, it will be necessary for you to speak much more distinctly and much more slowly. The interpreters found it difficult, if not impossible, on last Friday's session and they are having the same difficulty today in understanding what you have to say, so speak very distinctly and very slowly.

DEFENDANT KEPPLER: Mr. President, I will do my very best, thank you.

JUDGE MAGUIRE, PRESIDING: Thank you. Proceed, Doctor.

DEFENDANT KEPPLER: Hitler originally endeavored to establish a very good relationship with Mussolini's Italy and in creating

such a good relationship it was particularly the Austrian question which represented a certain sore point. Dollfuss and even more so, Schuschnigg, turned towards Italy and particularly Schuschnigg considered Mussolini so to say, the patron saint for the independence of Austria. In 1934 the so-called Roman Protocol formed the anchor for this relationship and this fact was a very special reason, and in addition to everything else that existed, for Hitler absolutely desiring a gradual and evolutionary solution for the Austrian problem. All those people who came to know Hitler in major politics know that Hitler in a very painstaking manner was always anxious to see to it that nothing was to happen which might in any way disturb the relationship between Germany and Italy and thus these general outlines issued by Hitler concerning a pacification to be obtained in Austria were definitely founded in foreign policy too.

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Q. Herr Keppler, the prosecution documents disclose that you maintained correspondence with Seyss-Inquart and sometimes in the communications there are clues and references to a certain route to be used for this exchange of correspondence. Did your correspondence with Seyss-Inquart go via definite channels? Did you agree to such a channel?

A. Yes. This occurred in connection with one letter. First of all I arranged with Seyss-Inquart that we would use the normal channels for political communications via the Foreign Office but this channel came to be dilatory in the long run.

Q. Now, Witness, did your work in Austria change in any respect when Ribbentrop was appointed Foreign Minister?

A. Yes, a certain change did take place. Either on the first or second day after he was appointed Reich Foreign Minister, Ribbentrop asked me to come and see him and he then told me that I was to take over the work in Austria for the Foreign Office. The Party played a predominant part in the Austrian question and he thought I would have a much better perspective over this sphere of work than members of the Foreign Office. However, as far as the guiding principles were concerned which Hitler gave me for my work in Austria, nothing was changed in them.

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Q. Did this, then, lead to the conference in Berchtesgaden? Was it because Seyss-Inquart couldn't go on any more? Did you report to Hitler? And, on the basis of your report, did Hitler decide to order Schuschnigg to Berchtesgaden?

A. First of all, I don't think I did report to Hitler. Second, the meeting in Berchtesgaden was motivated by different reasons

altogether. It was a well-known fact that in January 1938 the then Commander in Chief of the Wehrmacht [Reich Minister of War], General Blomberg, was recalled from office. His recall became necessary because of conditions which were discussed before the IMT and which I therefore don't need to repeat in this trial. After this incident, the Fuehrer was left rather insecure, as he himself admitted, and he wanted to cover the fact that Blomberg had been recalled from office by a general reassignment of official functions held in the German Government, that is, a general reassignment was to take place. On the occasion of this general reapportionment of jobs, Blomberg was replaced, a change in the military organization was put into effect, Brauchitsch was appointed, Ribbentrop became Foreign Minister and, among other things, Papen, who was Envoy Extraordinary in Vienna, was recalled from his post. Thereupon von Papen immediately went to Berlin and he notified Hitler—let me interpolate here that I think it was only shortly before the Anschluss that the Fuehrer himself told me this; I didn't know it at the time it happened. As I said, Papen came to Berlin to see the Fuehrer and he reported to him that he was just carrying on negotiations as preliminary feelers with Schuschnigg, and he suggested to Schuschnigg that the Austrian matters be discussed with the Fuehrer himself, just once, in order to clear them up. Hitler liked this idea and thereupon, despite the fact that Papen had been recalled from office, he sent Papen to Vienna again and he asked him to now really bring about an actual encounter, to take place between Schuschnigg and himself. That is the manner in which this meeting actually came about. All these incidents, however, were quite unknown to me and I only heard of them at the end of February, one day, unexpectedly.

Q. When did you hear for the first time that this conference was to take place on 12 February 1938?

A. Well, I heard of it when he arrived in Berchtesgaden, on this very day. On 11 February, the preceding day, I was lunching in a Berlin restaurant when a secretary came up to me and told me that a telephone call had come through from the Adjutant's office of the Fuehrer in Berchtesgaden and that I was to go to Munich that same night. There was no reason given. In the course of that afternoon, in my office, I was again called up by the Adjutant's office: I was not to use the night train but I was to use a train which was leaving within the next half hour. Thus it came about that, in great dispatch, I packed the luggage I had and was just able to reach the train, which was on the point of leaving. At midnight I arrived at the hotel which had been prescribed for me to live in, in Munich. At

the very time when I entered the room there was another telephone call that came through from Adjutant Brueckner, of the Fuehrer's staff and he told me that at 4:30 the next morning an automobile would come to pick me up and take me to Berchtesgaden. Again no reasons were given. The next morning I arrived at Berchtesgaden and I then called on Ribbentrop, in the hotel where they deposited me, and he told me that Schuschnigg was expected on the Obersalzberg within the very next few hours. Previous to that, I had no idea that this conference was going to take place.

Q. Did you take part in the conference that took place between Hitler and Schuschnigg on 12 February 1938?

A. I did not take part in any of the decisive discussions. Schuschnigg arrived at approximately 11 o'clock. The Fuehrer immediately came to meet him in front of the house and, without introducing him, he was immediately taken, by the Fuehrer, into the Fuehrer's studio on the upper floor. There a discussion took place solely between them which lasted for about 2 hours. Then the two gentlemen returned for lunch and after lunch they left the Austrians alone in order to permit them to discuss the matter between them. Then discussions were resumed again, in which I did not take any part. All I know is that Ribbentrop and Keitel were temporarily called in and in between some of the gentlemen came out to take a cup of tea or get some food; and at approximately 9 o'clock in the evening they all appeared in the big hall carrying the signed treaty in their hands.

Therefore, as far as the main conference was concerned, I must say that that was a *tête-à-tête* between Hitler and Schuschnigg only. The descriptions that I subsequently read about this conference deviated very considerably from each other and I think the most lenient, in my opinion, is Schuschnigg's own description of what took place at that conference. I can very well imagine that the Fuehrer may have developed a certain temperament in the course of the discussions because he was a very temperamental person indeed; and the Austrian question was one that lay very close to his heart because hundreds of thousands were suffering a terrible fate in Austria for his sake. Therefore, I can well imagine that it was a temperamental conference but surely not worse than the manner in which Schuschnigg describes it himself.

In the evening, when the gentlemen returned to the general hall, Schuschnigg made a comparatively satisfactory impression and then my person came up for discussion. The Fuehrer told Schuschnigg that he had entrusted me with the dealing and handling of the Austrian problem and he then asked me to go to

Vienna every 3 or 4 weeks to see to it that peace and relaxation would really set in and, if at all possible, he asked Schuschnigg to receive me every time I did go to Vienna. Then there was another short interesting discussion. Schuschnigg himself took up the subject matter of Landesleiter Leopold and in a somewhat depressed manner he asked the Fuehrer if Leopold would be able and willing to adhere to the course of the policy which had been determined upon. Hitler replied to Schuschnigg that he had already ordered Leopold to come to Berlin and he was going to ask him, in Berlin, to resign from his office as State Leader [Landesleiter] because he would not be able any longer to really follow a line of conduct which was at absolute variance with the one now determined upon. And he proposed to see to it that Leopold would find a successor who would be a pacific and restrained sort of person.

Throughout this conference Dr. Schuschnigg was very much satisfied and, as a matter of fact a few days thereafter, what had been arranged upon actually took place.

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Q. The prosecution also links you with financial matters in connection with your work in Austria—the so-called Langoth Scheme which was already mentioned in the Hornbostel examination and concerning which a number of documents have been submitted in your document books for instance, Exhibits 91[1] and 92[2] in book 3, and Exhibit 133[3] in book 5. All this testimony and all these documents have cleared up, I think, the fact that the so-called Langoth Action was tolerated by the Austrian Government and known to it. Now, however, Hornbostel maintained, on the witness stand, that apart from the Langoth Scheme there were other similar schemes, which the Austrian Government had not permitted. Do you know anything about any such schemes and had you anything to do with them?

A. I cannot remember, in the whole of the time that the Schuschnigg government was in power, that even a single penny was given to the Party in Austria or was sent through intermediaries, or that I was called in any matter of this kind. Not a single penny. I do not know how the prosecution comes to state that.

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[1] Keppler Document 90, Keppler Defense Exhibit 91, an affidavit by Franz Langoth, not reproduced herein.

[2] Keppler Document 133, Keppler Defense Exhibit 92, excerpts from the trial against Dr. Guido Schmidt on charges of high treason before the Peoples Court in Vienna. Dr. Schmidt affirms that help was sent from private sources in Germany to the "Langoth Benevolent Fund" and that this fund rendered help to needy National Socialist families. This exhibit is not reproduced herein.

[3] Keppler Document 182, Keppler Defense Exhibit 133, testimony of Glaise-Horstenau on 12 June 1946 before the IMT, not reproduced herein. The testimony is reproduced in Trial of the Major War Criminals, volume XVI, pages 113–122.

Q. Perhaps I may submit to you that in a report Langoth sent to Hitler, which has been mentioned several times, in prosecution book 2, Exhibit 41,* page 46 of the English, that there the report says that the national circles in Austria which were opposed to Leopold for instance, Seyss-Inquart, had very generous sources for getting money that Leopold could only guess at, and therefore would not mention. Can you say something about that?

A. Well, all I can say is that I can't remember ever having given a single penny to Seyss-Inquart for Party purposes. As for the reliability of Leopold's testimony, I remarked about that just now, and anyway it was only an assumption on his part.

JUDGE MAGUIRE, PRESIDING: Witness, did you give Seyss-Inquart any money for any purposes?

DEFENDANT KEPPLER: No, not that I remember. But from the prosecution's documents I have seen that once Seyss-Inquart wanted 20,000 or 30,000 schillings from me for the Langoth Welfare Scheme. I had no funds for Austria at all. It is possible that I got another source to provide 30,000 schillings for this welfare scheme, which Schuschnigg approved. But for other purposes too, as far as I know, up to the Anschluss of Austria, I never gave a single penny to Seyss-Inquart for political purposes. Quite generally speaking, I cannot remember having given Seyss-Inquart a single penny for political purposes at that time, or anything of the kind.

DR. SCHUBERT: In Prosecution Exhibit 41, in book 2–A, which you have already mentioned on page 37, there is a letter you wrote to the Fuehrer's adjutant, Captain Wiedemann. That shows that for the office of a certain Dr. Megerle you negotiated the payment of a sum of 5,000 marks. Is that in any way connected with Austrian affairs?

A. Well, Megerle had an office for publications literature. Among other things, he published some very nice little Austrian books and I know some sort of higher agency asked me if I could not do anything about financing Megerle's office and that was done, with these 5,000 marks. But it was a matter purely of cultural purposes. Megerle later worked as a journalist on general politics but at that time he was working only on cultural matters.

Q. Herr Keppler, in this connection—

JUDGE MAGUIRE, PRESIDING: Before you proceed. Well, what kind of cultural matters was he working on?

DEFENDANT KEPPLER: Well, he published books. He published one book of poems written by members of the Hitler Youth in Austria, and they met with great response. They were sold

* Document NG–3578, Prosecution Exhibit 41, reproduced in part earlier in this section.

especially in the Reich. I don't remember for certain whether the suggestion came from Hitler himself, or some other agency, but I have a firm feeling that I was trying at that time to finance his office on behalf of a higher agency. I can only say the following: At that time the propaganda of the Propaganda Ministry for Austria was still running very slowly—only just enough to stop the Austrian Party members from getting too dissatisfied. Megerle was also working for the Propaganda Ministry on cultural questions at the time and I was always rather amused at his expense that he was having too high hopes of what he might achieve by means of his cultural activity, thinking that by this means he might have success in foreign politics.

JUDGE MAGUIRE, PRESIDING: Thank you. You may proceed, Doctor.

DR. SCHUBERT: Then I must still discuss with you, Herr Keppler, Prosecution Exhibit 40,* in book 2–A, page 66 of the English text. That is a correspondence between the Reich Treasurer of the Nazi Party, the SA Obergruppenfuehrer Reschny and the Fuehrer's Adjutant, Wiedemann and yourself. According to this, Reschny was managing the so-called Northwest Welfare Scheme and you were given certain powers about the budget demands of this welfare scheme. Please tell us briefly what this Northwest Welfare Scheme was.

A. This Northwest Welfare Scheme was mentioned this morning, by the witness Reinthaller, when describing Austrian Legion. When, in the summer of 1937, the Fuehrer entrusted me with looking after the Austrian question within the Party and when the Party Chancellery informed the various party agencies of this in a decree (unfortunately I could not find this decree anywhere) the Party Treasurer, Schwarz, had issued a regulation to the manager of the Northwest Welfare Scheme that I must approve his budget. I suppose this was because it was generally known that I was an enemy of unnecessary expenditures. As far as I remember, on one occasion this budget passed through my hands and was approved by me. If I may add something this Austrian Legion was, in my day, used to build the Alpine Roads and in particular they built a road on the famous scenic mountain south of the Tegernsee. I myself did not think very much of this employment for the Austrians and suggested to the Fuehrer that the Austrian Legion should be dissolved. I have even found a document now, according to which I reported to the Fuehrer with this suggestion. Unfortunately I did not hand it in because my

* Document NG–2934, reproduced earlier in this section.

attorney said it was superfluous. I suppose it is enough if I testify to that here, to describe my attitude to this welfare scheme.

Q. If I understood you correctly, Herr Keppler, in your day the Austrian Legion was not a military formation or quasi-military formation but, if I may put it this way, something in the nature of a labor battalion?

A. Yes. Its main task at that time was labor and, as I say, they built a road up a mountain. The budget was by a large part made by Todt, who was in charge of building these roads. But anyway, I don't think that is very important.

Q. Between the Berchtesgaden Agreement and the Anschluss were you in Vienna frequently?

A. I mentioned just now that at the beginning of March, I took a trip to Vienna and I described what I did there, in order to put a brake on these demonstrations, and I also attended a conference of the ethnical-political Referate, in order to put a brake on them. What is more important is that at the end of my stay I was received by the Federal Chancellor, Schuschnigg. That was on Saturday, 5 March, that is, not quite a week before Schuschnigg's resignation.

I was received in his private apartment and, to my great surprise, he told me in the course of the conversation that he would like me to read his old speeches and publications and see from them the extent to which in former years he had already supported National Socialist ideas. In the further course of the conversation he told me that he himself was also a friend of the Anschluss but the problem was whether we could settle on a date. I was greatly surprised about Schuschnigg's attitude at the time. Today I have a somewhat different perspective because 4 days afterwards Schuschnigg announced this plebiscite which I will come to presently and in the meantime I found out that 2 days after this conversation one of Schuschnigg's trusted men went to see Mussolini in order to tell Mussolini about this intended plebiscite and to discuss it with him.

As a result I presume now, and I doubt if I am wrong, that Schuschnigg told me all these nice things in order to calm me down and that perhaps he didn't mean it so very seriously. Anyway, Schuschnigg had in his youth worked very energetically for the Anschluss of the Tyrol. Then, the same day, I returned to Berlin. On Tuesday, 8 March, Ribbentrop took me along to see the Fuehrer in order to report about my conversation with Schuschnigg. Hitler was very satisfied with my report. He told me that Schuschnigg was absolutely right. In actual fact he had formerly supported National Socialist ideas. I should try to go on getting close to Schuschnigg and that I should try in particu-

lar to get on good terms with him personally and to smooth the way for him so that later on he might find it easy to settle down in the intended new conditions.

Hitler again instructed me to go to Vienna every 3 or 4 weeks in order to see to pacification and on this day, that is 3 days before Schuschnigg resigned, he instructed me expressly not to press Schuschnigg, not to discuss with Schuschnigg even the date for an Anschluss but for the time being not to discuss the Anschluss at all with Schuschnigg. Something else occurred at this conference which was of importance for my own life. Ribbentrop went with the Fuehrer to the other end of the large room. I saw that the Fuehrer signed something and then when later I left with Ribbentrop, he told me that I was now his State Secretary. An appointment as State Secretary in the Foreign Office had not been mentioned with a single syllable to anybody. It was a complete surprise for me. Then I further have to report that at the end of this reception with the Fuehrer, Ribbentrop said goodbye because he was leaving for London the same evening in order to make his farewell visit as ambassador there, a post which in the meantime he had abandoned.

Q. When did you go to Vienna again, Herr Keppler?

A. Well, after that day events followed upon each other very quickly. The next morning, Wednesday, 9 March, I got a report from Vienna that the Austrian Government was planning a plebiscite. I called up Seyss-Inquart right away. He told me "Yes, the situation has really got serious quite suddenly." I went right away to the Reich Chancellery to see the Fuehrer, told him about the report. The Fuehrer said, "It is quite out of the question for Schuschnigg, 3 weeks after the Berchtesgaden agreement, to break it. That report is absolutely incredible." I replied that in the meantime I talked to Seyss-Inquart who had briefly told me that the situation was serious. Seyss-Inquart didn't say anything about the plebiscite because, as is generally known, he had promised Schuschnigg not to talk about it for a certain time. Thereupon Hitler went to the door, called his pilot, Bauer, told him to get ready an aircraft for Vienna right away and told me to fly to Vienna immediately in order to inquire on the spot what was the truth of the matter. So the whole thing just came right out of the blue. I flew to Vienna and when I arrived I heard immediately that Schuschnigg was to speak on the radio. I listened to the speech in the German Legation and Schuschnigg in actual fact announced the imminent plebiscite in it. While Schuschnigg was still speaking I was called to the telephone and to my surprise Hitler himself was at the other end. He asked what was going on. I told him. I had found everything to be as

the reports had said but, of course, I didn't want to report at length on the telephone and if he agreed, I would fly back to Berlin at dawn and go to report to him immediately in the Reich Chancellery.

I met a few acquaintances in the Legation in Vienna with whom I discussed matters, including Herr von Papen. Then I went to my hotel and on the way things were very lively in Vienna. Masses of police were out and on the Ring and in the Kaerntnerstrasse there were huge demonstrations. Some of them were armed. Masses of pamphlets and leaflets were being scattered. My hotel room faced the Kaerntnerstrasse and for some time I watched this activity. One truck after another carrying powerful loudspeakers rolled past. When I woke up the next morning the Kaerntnerstrasse, which is the main business street of Vienna, was almost white with leaflets. The propaganda slogans were written on the streets themselves and in fact Vienna gave a pretty lively impression and of course these were demonstrations which were not spontaneous but which had been prepared in advance. Then early in the morning I flew back to Berlin.

* * * * * * *

Q. When you visited the Reich Chancellery, were you told anything about military preparations in Austria or did you find out in any other way?

A. I was told nothing but I saw that there were a lot of officers about, so I had a feeling that something might happen. I heard afterwards that on this morning the order to prepare to march into Austria was given to the then Chief of Staff General Beck. General Brauchitsch, who really was the responsible man, was away on a trip and Ribbentrop and Milch, the latter, after Goering, the decisive man of the air force, were away too.

* * * * * * *

Q. Your assignment, Herr Keppler, therefore was concerned with influencing the internal arrangements of a so far independent state. Did you have any doubts about accepting that assignment?

A. No. I had no misgivings. Of course, I realized that the Austrian Government was standing under a certain amount of military pressure. On that day I learned that on the day before and on this day the Austrians had called up and drafted some age groups. On the other hand, I had the impression that the Fuehrer was absolutely serious in his intentions of settling matters peacefully and I therefore had no misgivings about accepting the assignment; and hoped I would succeed in managing to get matters cleared up peacefully. The fact that the Fuehrer was

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serious is shown by the fact that when I left he called a halt in the preparations for military measures.

DR. SCHUBERT: The fact that the preparations for the invasion were stopped on the afternoon of 11 March 1938 is shown by my Exhibits 99, 100, and 101[1] in document book 3.

Q. Now, I would like to know from you, as accurately as possible, the time when you left Berlin by air on that date and when you arrived in Vienna.

A. I left, together with Dr. Veesenmayer, at about half-past three in the afternoon, from the Tempelhof Air Field and I arrived at the airport in Vienna at about half-past five in the evening.

Q. I would like to point out here, Herr Keppler, that the testimony of a number of witnesses concerning the time of your arrival differs considerably. For instance, Hornbostel claims that he got police reports according to which you and Veesenmayer were already in Vienna on the morning of 11 March, whereas Miklas gives the time of your visit, first, as 3 o'clock in the afternoon and then, in the course of his examination, as one or at the most, one and a half hours later. Have you any basis to enable you to state with certainty that you did not arrive in Vienna until somewhere getting on towards 6 in the evening?

A. Yes. I can say that with absolute certainty. I might perhaps remind you of Goering's telephone calls which the prosecution,[2] and in part my defense counsel, have submitted, where there is an account of a conversation with Vienna which states "Keppler is not here yet. He is expected at 5:40 in the evening." And I know for certain that when we arrived in Vienna it was already getting dark; it was dusk. I know that there is all sorts of conflicting testimony available. Some say I got there in the afternoon, some say I got there in the morning. However, there is something I would like to say. For example, just in the Guido Schmidt trial, I would never have thought it possible that in such an important, serious trial, so much false testimony could be given.

DR. SCHUBERT: The telephone conversation to which the witness just referred is contained in prosecution book 2, Exhibit 33, page 160. It is about the fifth paragraph from the bottom in the English.

Q. Where did you go after your arrival, Herr Keppler?

A. When we were approaching the Vienna Air Field, I was somewhat worried about how things would look because 2 days

[1] Keppler Document 13, Keppler Exhibit 99, an affidavit by Walter von Brauchitsch; Keppler Document 67, Keppler Exhibit 100, an affidavit by Maximilian von Meichs; and Keppler Document 96, Keppler Exhibit 101, an affidavit by Erhard Milch, all concerning the military preparations for the occupation of Austria, are not reproduced herein.

[2] Document 2949-PS, Prosecution Exhibit 33, reproduced in part earlier in this section.

earlier I had left Vienna in a very critical state. However, when I arrived everything was quiet. Curiously enough, the captain of the air field came right away, reported to me ceremoniously, and told me that I was to go to the German Legation immediately and call Goering. When I arrived at the Legation Goering was already on the line. As far as I know, in the document the beginning of this telephone conversation is given as being at 5:59. I went to the telephone right away, without even taking off my hat and coat, so I must have reached the Legation 2 or 3 minutes before 6, which corresponds to the statement that I was expected at about 5:40. Goering was on the line. He was entirely wrongly informed that Schuschnigg had resigned, that Seyss-Inquart had already been appointed his successor, and so forth and so on. What he said was mostly wrong. However, I had one impression from the telephone conversation, namely, that Goering had taken actions into his own hands as far as Austria was concerned; and he testified before the IMT that he went over the Fuehrer's head and took the matter into his own hands. That was the impression that I got immediately from the telephone conversation and the wild things he told me.

Q. I would like to refer to the fact that Goering's testimony, to which the witness just referred, is submitted in Keppler Defense Exhibit 106,* in document book 3.

You just stated, Herr Keppler, that you were in the Legation and that you called up Goering or rather, that you talked to Goering on the telephone. Now, what happened next?

A. Then, of course, I tried to get in touch with Seyss-Inquart. I couldn't reach him by telephone. His Ministry said the best thing to do would be for me to go to the Federal Chancellor's Office. When I got there, he arrived soon after. I asked him about the state of affairs. It was not true that he had been appointed Schuschnigg's successor, but it was correct that Schuschnigg had resigned. Seyss-Inquart told me at the time that Federal President Miklas had not accepted the resignation. On this point the testimony of the various agencies still differs but, at any rate, that was not decisive. Seyss-Inquart further told me that he had got a letter from the Fuehrer—that is the letter I mentioned just now—and that thereupon he had a conference with Schuschnigg, had asked for the postponement of the plebiscite and that thereupon Schuschnigg had called off the plebiscite altogether, but had also stated that he was resigning. Then, at the end, a rather wild telephone call came from Goering and things were pretty much of a mess anyway. Thereupon, I decided to go to see Federal President Miklas. First, in the Federal

* Document Keppler 28, reproduced earlier in this section.

Chancellor's office I met Muff, the military attaché with the Vienna Legation, and I heard that he had just been to see Miklas on Goering's behalf but he hardly told me what he really did there. I only found out about the actual facts of the case 2 years later when, one day, I met General Muff in a well-known hotel in Paris, quite accidentally, and I was horrified when he told me that, on Goering's behalf, he had delivered a very severe military ultimatum to Miklas. Although I did not know that at the time, I nevertheless saw that the situation, for me to act as mediator in Vienna, was pretty well spoiled. All the same, I went to Miklas. And now comes a somewhat embarrassing thing for me. Miklas' testimony in connection with this case does not correspond in any way to my memory.

Q. Herr Keppler, I think you are going on rather too quickly. You had mentioned your conversation with Muff and you said that Muff had not sufficiently informed you about his conversations with Miklas. You say that you then went to Miklas. However, I think there was a telephone conversation in between that. Is that correct?

A. Yes. I was called to the telephone, quite briefly, to talk to Goering. He was rather excited because things weren't going the way he wanted them to. I talked to him quite shortly, and while I was talking to him I got the news that Miklas was prepared to talk to me. I broke off the conversation and went to see Miklas.

DR. SCHUBERT: This telephone conversation which the witness has just mentioned is contained in Prosecution Exhibit 33, in book 2, part H, page 165 of the English. This exhibit shows that, as the witness Keppler described, first Muff and then Keppler went to see Miklas, whereas Miklas says the opposite.

Q. Now, please tell us what you were going to say before, in what way your conversation with Miklas developed.

A. Well, I reported to Miklas and he was ready to receive me. I asked Seyss-Inquart to accompany me; but Seyss-Inquart refused because presumably the wish for his appointment as Schuschnigg's successor would be discussed, and he thought it unsuitable that he should be present. However, he advised me to talk to Miklas as calmly as possible because it was well known that Miklas got excited very easily in difficult situations. I followed this advice and was very careful in the way I talked to Miklas.

Q. And what did you tell Miklas?

A. Well, I remember this conversation pretty clearly. I told Miklas that the Fuehrer had sent me there in order to find a peaceful solution at the last moment. The Fuehrer's standpoint

was that Schuschnigg had broken the Berchtesgaden Agreement, and he had told me to insist upon Schuschnigg's resignation. In the meantime this question had been settled, because Schuschnigg had now stated that he was resigning. I told him exactly what my assignment was, that the Fuehrer wished to get back to the basis of the Berchtesgaden Agreement and wanted a suitable government for this purpose. I then stated that the Fuehrer had said he would have preferred it if Seyss-Inquart were to become Schuschnigg's successor. Miklas interrupted me, already getting a bit excited, and asked whether I really was a State Secretary, which was how I had introduced myself. I answered yes, I was. I had been appointed a few days ago, that the news had not yet been made public so of course he couldn't know. The Fuehrer had told me that I was to appear here in my capacity as State Secretary. That statement calmed Miklas down again. He laid his hand on my arm and kept stroking me, practically, for the whole of the conversation. The conversation then took a very peaceful and friendly form; otherwise he wouldn't have held on to my sleeve all the time. However, Miklas refused to appoint Seyss-Inquart. I had no wish to quarrel with him and I asked Miklas in very calm words, in view of the gravity of the situation, to think the matter over. I said I would remain in the building. I would be at his disposal at any time he wanted to talk to me. The Fuehrer had told me, if possible, to inform him about the results of my mission by 8 o'clock at night, and if Miklas had not sent for me before that, I would take the liberty of going to see him a little before 8 o'clock. I then took leave of him in the proper way, and, as I say, the whole conference took an absolutely quiet, calm and peaceful course.

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DR. SCHUBERT: Herr Keppler, yesterday you told us about the conversation you had with Miklas and you said that you did not make any military ultimatum. Now, at this decisive point, I must put to you that during his interrogation, Miklas stated in reply to my questions, that you had threatened him with an invasion and had reported to him that 200,000 German troops were ready at the border to march into Austria. What have you to say about this?

DEFENDANT KEPPLER: Well, that certainly is an error on the part of Miklas. I certainly did not speak a single word to him about military things or make an ultimatum to him. I know that for certain and I am quite aware of the fact that I am under oath here. Nobody had given me a mission to that effect and I certainly would not have done such a thing on my own initiative. That is not my inclination at all.

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DR. SCHUBERT: For what length of time did your conversation last with Miklas?

DEFENDANT KEPPLER: It was very short, lasting only several minutes. I had no reason or desire to discuss or dispute with him. I just told him I was going to visit him once more, later.

Q. In Prosecution Exhibit 32[1] in book 2, on page 141 of the English, there is another statement of Rainer, who makes the assertion that Richard Schmitz, then Lord Mayor of Vienna, had been present during the conversation between you and Miklas and he said that you had treated this Richard Schmitz so badly and had shouted at him in such a manner, that he finally took off. What have you to say about that?

A. That is also an error. Fortunately, during his trial in Vienna, Guido Schmidt rectified this affair and stated there that it was not I who had done this, but it was General Muff who had done that.

Q. It wasn't you, then?

A. No.

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Q. In the two documents in which Rainer describes the events, Prosecution Exhibit 15[2] and Prosecution Exhibit 32, he describes these things by saying that the seizure of power in Austria was, for the most part, the work of the Austrian Nazi Party. We heard from Reinthaller[3] yesterday that with the exception of the Austrian Federal Government, the offices of the executives in the provinces were already staffed before the Austrian Government was formed. In these documents Rainer also says that you had been a brake against a few of the stormy efforts of the Party people. Can you go into this a little more?

A. It is a fact that the Party tried to seize power and as Rainer in this case correctly states, I did counteract these endeavors and I always hoped that I would be able to fulfill my mission and to achieve a completely peaceful solution of the problem. I had to object to these endeavors but it is a fact that a certain amount of power was seized already. I know, for instance, that the radio building was occupied by Party people and, furthermore, it is true that in the various capitals of the provinces, the government was actually turned over to Party people. But that was carried out everywhere without any incidents and, so to speak, it was the overripe apple that dropped from the tree.

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[1] Document 4005-PS, reproduced earlier in this section.

[2] Document 812-PS, Prosecution Exhibit 15, reproduced in part earlier in this section.

[3] The testimony of Anton Reinthaller is recorded in the mimeographed transcript, 19 and 20 July 1948, pages 12697-12760; 12888-12889.

Q. In this connection, Rainer mentioned in those two documents, that you had made the statement that the Fuehrer was only lacking an excuse for marching in. Did you make such a statement?

A. I can't recollect it. It is possible that I said it, for the Party did press all the time and I wanted to calm these people down, and it is quite possible that I said something like this.

Q. Herr Keppler, you really haven't answered my question, at least not exhaustively. Rainer's statements must be understood to mean that the Fuehrer still has not the reason for an invasion and that such a reason must be created. Did you say something like this?

A. I did not say quite definitely that a reason for an invasion must be created. I exercised a calming influence upon these people.

Q. During the period between 2048 and 2054 [hours] another telephone conversation took place between you and Goering. The prosecution submitted that conversation as part I of Prosecution Exhibit 33* in book 2 on page 169 of the English. Initially in this conversation you report about the lack of success your second visit with Miklas had had, and you mention—I quote now—"We now have the government." Was that to be understood, Mr. Keppler, to mean that at that time already the Seyss-Inquart government had been formed?

A. No. That wasn't so at all and it probably didn't take place that directly either. However, Seyss-Inquart had informed me that the government had not resigned, had not abdicated, but that they had agreed that they would not exercise any function in the future and that they would let the matters take their course and, of course, the Party automatically moved into this vacuum that was thus created.

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Q. Well, Mr. Keppler, when was the Seyss-Inquart government formed?

A. Approximately around 2300 hours. Miklas decided to undertake something and at the insistence and persuasion of Schuschnigg and Guido Schmidt, he decided to appoint Seyss-Inquart Federal Chancellor and he demanded that Seyss-Inquart submit to him a list of intended or scheduled ministers. Such a list had been completed in the meantime and two Party members were to be taken into the cabinet according to this list, namely, Reinthaller, whom your Honors have met yesterday and who has reported to Your Honors about his decent relationship with Schuschnigg and then another, Dr. Jury. I'd like to refer to Kep-

* Document 2949–PS, reproduced earlier in this section.

pler Defense Exhibit 94* in my document book 3 on page 9. This is a note of State Secretary Weizsaecker about a conversation with Schuschnigg where Schuschnigg expressed his particular liking for Dr. Jury. Only two Party members had been provided for in this list and these two people were very moderate and reasonable men. Furthermore, in this list of ministers three Christian Socialists were provided for. That was the former government party. The Minister of Finance up to that time, Mr. Neumayer, another man, Professor Menghin as the Education Minister, and a certain Mr. Wolf as the Foreign Minister. The other ministers provided for were not affiliated with any party and were in favor of the national tendency. Miklas turned this list over to former Federal Chancellor Schuschnigg and the latter said that that was very reasonably composed and asked Miklas to accept this list and without any change actually Miklas did accept this list.

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Q. When did you hear for the first time that an Anschluss was intended?

DEFENDANT KEPPLER: Sunday, 13 March, when I was having my breakfast I was called to the telephone. The Fuehrer himself was on the other end of the line and requested me to take up contact with the Austrian Government to find out what they felt about the Anschluss. And he informed me at the same time that he had sent Ministerial Director Stuckart, who is also a defendant here now, who, in his capacity as a lawyer might offer assistance in the legal working out of drafts or bills for new laws, since the Austrian and German laws would have to be made to coincide. At a later time I heard from various sources that the idea to bring about the Anschluss came to the Fuehrer only at a very late hour, for on the preceding day he still issued an order to the Ministry of the Interior that they should work out a draft for the purpose of establishing a union between Austria and Germany, and that he thought of the Anschluss only when he was accorded such an enthusiastic treatment by the Austrian people. In other words, the Austrians themselves prevailed on him to bring about the Anschluss.

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CROSS-EXAMINATION

MR. GANTT: Mr. Keppler, you testified yesterday at the early beginning of your testimony that in 1933 Germany was in no position to wage an aggressive war, to quote you literally, "at that time where any act of aggression was out of the question."

* Keppler Document 115, Keppler Defense Exhibit 94, reproduced earlier in this section.

Now, my question is, Witness, what did you mean by this statement?

DEFENDANT KEPPLER: I spoke initially in answer to question of my defense counsel whether in 1933 I thought that an aggressive war was possible and that question was put to me in connection with the subject of which I am indicted, namely, the seizure of power and since no material evidence has been submitted for this count of the indictment, therefore, my defense counsel asked me as the only question whether I considered this an aggressive act or a preparation for an aggressive act and in answer to this I said, under this circumstance no normal human being thought of an aggressive act.

Q. Well, what did you mean, Witness? Did you mean the army wasn't big enough or did you mean there weren't enough raw materials?

A. I meant that Germany was completely unarmed at that time.

Q. At what time, Witness, was Germany ready for an aggressive war?

A. Later on Germany armed to a certain extent but I was of the firm conviction as I said yesterday, not for an aggressive war, but I mentioned that the Fuehrer frequently stated that the big question was whether he could live in peace with Russia permanently and that was the reason why these measures were initiated, and I know that the Fuehrer frequently emphasized that if Germany remained unarmed, then it could certainly not live at peace with Russia.

Q. Witness, in what year did the war come against Russia?

JUDGE MAGUIRE, PRESIDING: Well, counsel, that's in the record. It is well known.

MR. GANTT: But the war against Russia was not the first one which Germany started?

A. No. It was not the first.

Q. Witness, you said then further that Austria was Hitler's native country and you said, and I quote you, "His"—Hitler's—"fond objective, of course, was to incorporate Austria into the Reich but under no circumstances would it be permissible as a menace to European peace." Is it correct to state, Witness, then, that Hitler from the beginning intended to incorporate Austria?

A. Your quotation is approximately correct and I said yesterday it is correct that the Fuehrer desired an incorporation of Austria and that he aimed for this goal. I did not try to conceal that either but I emphasized that he wanted to achieve this without disturbing the European conditions in any manner and the situation was as follows: Very many statesmen, even from enemy countries, had in the meantime recognized that the peace treaties

that were concluded after the First World War would have to be changed in that respect and as such the Treaty of Versailles did not prohibit the annexation of Austria; but it only provided for an agreement or approval of the League of Nations and particularly since, in November 1937, Hitler had had a lengthy discussion with the British Foreign Minister Halifax.

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Q. Well, you at that time [1937] were commissioned by the man you always call the Fuehrer to be in complete charge of all Austrian questions.

A. I didn't quite understand.

MR. GANTT: Will you repeat the German translation please?

(Question repeated by interpreter.)

A. Not in 1937.

Q. In what year did you get the commission?

A. Not at all, never. In 1937 I was given the commission merely to consolidate the Austrian interests within the Nazi Party in Germany.

Q. Now, Mr. Keppler, in a letter to the Foreign Minister Ribbentrop you state that the Fuehrer has commissioned you in all questions regarding Austria.

A. Would you please show me that letter?

Q. It is exhibit 41 in document book 2–A, English page 37, German page 50.*

A. This is a letter of Leopold. Yes, I am just reading it now.

Q. Document book 2–A, English page 37. The document is NG–3578. It is signed Keppler. At the head is Central Office for Economic Political Organization of the NSDAP.

JUDGE MAGUIRE, PRESIDING: Mr. Gantt, we didn't—would you mind repeating the exhibit number and page number again?

DEFENDANT KEPPLER: It is Exhibit 41, but it's a document comprising approximately 20 pages and I don't know what passage you want me to refer to. I would appreciate it if you would give me the page number.

MR. GANTT: English page 37.

A. On these pages it says, "Since the Fuehrer has delegated to me the work concerning the Austrian questions in the NSDAP" and so on. It is just like I said, for as such there was a complete line of demarcation in 1934 between the Reich German NSDAP and the Austrian Nazi Party and all the directives, regulations, and so on that were issued to the Nazi Party in Germany, of course, did not have any binding force upon the Austrian Nazi Party for otherwise one would have had to add to each regulation, "with the exception of the Austrian Nazi Party."

* Document NG–3578, Prosecution Exhibit 41, reproduced in part earlier in this section.

Q. Now, Witness, if I understand you correctly, you said that the Austrian NSDAP and the German Nazi Party were completely distinct parties?

A. Yes, they were completely separated as to organization since 1934. Until 1934 there was an office in the central directorate in Munich for Austrian affairs as they called it, but the Fuehrer dissolved that in 1934 and made a complete line of demarcation between the parties in Austria and in Germany.

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Q. Did you arrange for visits of Seyss-Inquart to Berlin?

A. I believe that Seyss-Inquart was in Berlin twice or three times, and of course he was together with me. He paid a visit, the first visit, in 1937 in the autumn, I believe, in agreement with Federal Chancellor Schuschnigg. He asked me to prepare his visits to various gentlemen in Berlin. Then he was there a second time, and for the third time he was in Berlin. Then he was there, as far as I know, a few days after he had become Minister of the Interior on behalf of the Austrian Government.

Q. Now Witness, what German Nazi Party members did he see then in Berlin? Only of the top group.

A. What visit do you refer to now?

Q. Let's take the first one. Did he see Goering?

A. I can not tell you that with certainty. I do know for sure that he was with Hess. I don't know for sure whether he visited Goering during this first visit.

Q. And on his second one?

A. During the second visit, but I can not tell you for sure, he didn't look up any official personage.

Q. He didn't see Hitler on that day?

A. No. That happened only during the third visit.

Q. On the third visit on 17 February 1938?

A. Yes. That is the third visit after he had become Minister.

Q. Whom did he see then?

A. He had a conversation with the Fuehrer during which I was not present, and Ribbentrop was unfortunate enough in having to wait in the anteroom, too. I believe he then visited Goering and then a short visit was paid to Himmler, for Himmler was in charge of the security system and Seyss-Inquart was in charge of the security of Austria.

* * * * * * *

TRANSLATION OF KEPPLER DOCUMENT 8
KEPPLER DEFENSE EXHIBIT 108

AFFIDAVIT OF GUENTHER ALTENBURG, OFFICIAL IN THE GERMAN FOREIGN OFFICE, 21 FEBRUARY 1948, CONCERNING DEFENDANT KEPPLER AND THE HANDLING OF MATTERS CONCERNING AUSTRIA PRIOR TO THE ANSCHLUSS*

I, Dr. Guenther Altenburg, born on 5 June 1894 in Koenigsberg, Prussia, at present living in Munich, Martiusstr.1, have been duly warned that I shall render myself liable to punishment by making a false statement. I declare on oath that my statement is true and that it was made in order to be submitted as evidence at the Military Tribunal IV—Case 11—in the Palace of Justice in Nuernberg, Germany.

I was a member of the NSDAP since 1935. I was not a member of any Party affiliations.

I was Legation-Counsellor in the German Foreign Office, and later Minister, among other places, to Greece. From the end of 1934 to February 1941, I worked in the Foreign Office in Berlin, until February 1938 as Assistant Chief of a Division [Hilfsreferent], later as a Division Chief [Referent] and from the summer of 1939 onwards, as a Dirigent. I was responsible for the sections Austria, Czechoslovakia, and also Hungary. I know Herr Wilhelm Keppler through that activity.

On the basis of the agreement between the German Reich and Austria of July 1936 and the additional contract thereto of November 1936, a commission was to be set up which was to be composed of representatives of Germany and Austria on an equal footing, in order to discuss the problems resulting from the July agreement and to try to effect their solution. The German members of the commission were appointed in the summer of 1937, shortly before the commission met for a conference for the first time in July 1937 in Vienna. I myself was a member of the commission as was also Herr Keppler. The German delegation was headed by von Weizsaecker, who was at that time Ministerialdirektor.

I learned at the time that when Hitler selected the members of the commission, the decisive factor in his choice of Keppler was that the latter was not a "wild man" and there was therefore some guarantee of matters being discussed in a quiet and decent manner. I myself have always had the same impression of Herr

* Altenburg signed a number of further affidavits which were received as exhibits for the defendant von Weizsaecker. Although Altenburg appeared as a defense witness, he was not specifically cross-examined concerning the affidavit reproduced here. His testimony is recorded in the mimeographed transcript, 23 and 24 August 1948, pages 17601–17612, 17798–17818.

Keppler. He was never a trickster and his whole attitude was always loyal. He certainly did not belong to the typical Party intriguers. This attitude of Herr Keppler was also responsible for his definitely bad relations with Leopold, the leader of the illegal NSDAP in Vienna. Leopold was a very ambitious man, anxious to make himself important and always spinning intrigues, also against Keppler, among others.

When the commission met in Vienna in July 1937, it was very soon evident from the statements of the Austrian officials that they were altogether pleasantly surprised by the manner in which Herr Keppler negotiated. They had expected that a man who wore the Golden Party Badge would behave like a wild Nazi. That was just not the case with Herr Keppler. During the negotiations in Vienna, cultural and political problems were discussed in the first place. The debating of economic problems was postponed for a later date. As far as I remember, these economic negotiations were then conducted in Berlin; on the German side by Minister [Gesandter] Clodius, together with the Austrian Minister Schueller.

Neither I nor the Foreign Office were aware what instructions had been issued in detail to Keppler by Hitler for the Austrian affairs. I do not believe that Herr Keppler had anything to do with Austrian problems before his appointment as a member of the commission. In addition to the instructions given to Keppler, there were approximately 15–18 various offices, apart from the Foreign Office, which all handled Austrian affairs, so that a general survey was impossible. Moreover, Leopold and his emissaries were constantly in Germany, negotiating with the most varied offices and issuing through them instructions and authorities which were entirely independent of the official connections between the German Reich and Austria.

In the question of the Anschluss, the German Government offices held the opinion that this matter could be left to further development, as the Anschluss must some day come of itself. Obviously this was also the directive which Herr Keppler followed and which, as I know from occasional discussions with him, corresponded with his personal conviction.

On 11 March 1938, as became known in the Foreign Office on the same day, a conference was held in the Reich Chancellery at about 6 p.m. After it had been decided first that Austria should not be invaded, but that only a demonstration of the Luftwaffe should take place over Austria, Hitler in that meeting ordered the invasion. On 11 March 1938 I was in the Foreign Office in Berlin until the late hours of the evening. Approximately at midnight I received a phone call by Herr Keppler from the Embassy

in Vienna, in which he informed me that Hitler should be notified that the developments in Austria were going on peacefully and that the march into Austria should be abandoned. I gave this message to the aide Brueckner to be transmitted to Hitler. Brueckner awakened Hitler and about half an hour later gave me Hitler's order to inform Vienna that the preparations for the invasion could no longer be stopped.

Munich, 21 February 1948

[Signed] DR. GUENTHER ALTENBURG

TRANSLATION OF DOCUMENT WEIZSAECKER 158 WEIZSAECKER DEFENSE EXHIBIT 42

AFFIDAVIT OF GUIDO SCHMIDT, FORMER AUSTRIAN MINISTER OF FOREIGN AFFAIRS, 6 APRIL 1948, STATING THAT HE HAD NO KNOWLEDGE OF ANY PARTICIPATION OF DEFENDANT VON WEIZSAECKER IN VIOLENT ACTS LEADING TO THE ANNEXATION OF AUSTRIA

I, Dr. Guido Schmidt, Austrian citizen, born at Bludenz on 15 January 1901, residing at Bludenz, know about the importance of an affidavit; I herewith declare under oath the following to be submitted to the American Military Tribunal IV at Nuernberg, in Case 11.

From 11 July 1936 to 11 March 1938 I was Austrian State Secretary and [beziehungsweise] Minister for Foreign Affairs. During the events of 11 March 1938 I resigned together with Chancellor Dr. Schuschnigg.

In the course of my activities as State Secretary and [beziehungsweise] Minister for Foreign Affairs I have heard of no facts which would have indicated that Herr von Weizsaecker had any part in the violent practices which led to the annexation of Austria. About three times I had an opportunity to discuss with Herr von Weizsaecker questions concerning the relationship between Austria and the German Reich. Herr von Weizsaecker always proved himself an absolutely correct diplomat and, during the negotiations of November 1936, as well as during those of the summer of 1937 at Vienna he was anxious to straighten out difficult points.

Bludenz, 6 April 1948

[Signed] DR. GUIDO SCHMIDT*

* Defense affiant Schmidt was not requested for cross-examination.

D. The Annexation of the Sudetenland and the Invasion of Czechoslovakia

TRANSLATION OF DOCUMENT NG–2782
PROSECUTION EXHIBIT 52

CORRESPONDENCE BETWEEN ALTENBURG AND THE REICH OFFICE FOR FOREIGN EXCHANGE CONTROL, 15 FEBRUARY TO 15 APRIL 1937, CONCERNING CONTINUING FINANCIAL SUPPORT OF THE SUDETEN-GERMAN PARTY IN CZECHOSLOVAKIA BY THE FOREIGN OFFICE

1. Memorandum from Altenburg to the Personnel Department of the German Foreign Office, 15 February 1937, concerning continuing financial support of Henlein's Sudeten-German Party in Czechoslovakia by the Foreign Office

Referent: Counsellor of Legation, Altenburg

Political Div. I
D. Pol. [Handwritten] 775 Secret
[Illegible initial] [Handwritten] received 15 February 37

Memorandum

The Sudeten-German Party, since its election success in 1935, has been currently supported with funds from the Foreign Office for the purpose of strengthening and further developing the Party organization. Konrad Henlein on his last visit in January personally recommended anew that the Foreign Office continue to provide these funds also for the next fiscal year because, under the difficult conditions under which the Sudeten-German Party has to work he cannot do without these funds.

Judging by the insight gained into the local conditions through close cooperation with the Sudeten-German Party it appears necessary indeed, that further payment of this amount should be continued. For the next fiscal year it is therefore recommended to appropriate for use by the Sudeten-German Party the total amount of RM 180,000, of which RM 12,000 should be converted into Czech crowns [korun] and paid out via the German Legation, each month. The remaining amount of RM 3,000 per month would have to be paid as usual to the functionary of the Party in Berlin, Herr Metzger, Berlin-Schmargendorf, Auguste-Viktoria-Strasse 33 for maintenance of the office, etc.

Herewith submitted to the Personnel Department with the request for approval.

Berlin, 15 February 1937

[Initial] A. [ALTENBURG]
[Initials] MI 16 February
[Illegible initial] 15 February

2. Letter from the Reich Office for Foreign Exchange Control, to the Foreign Office, 15 April 1937, giving notice that the equivalent of RM 50,000 in Czech currency was available

Reich Office for Foreign Exchange Control

Secret

[Stamp]
Foreign Office
Political Div. I 1954 secret
received 17 April 1937

To the Foreign Office

Attention: Counsellor of Legation, Altenburg
Berlin

[Handwritten] Political Div. I 175 secret.

Secret No. 51/37

15 April 1937

Subject:

In regard to the matter with which you are already familiar I can inform you that the Foreign Exchange Office will grant you the permission to obtain the equivalent of RM 50,000 in Czech currency. The counter-value is to be paid to the Reichshauptbank—Foreign Exchange. The bank notes will be at your disposal by 15 May 1937. At the Reich Bank, Reichsbankrat Steindamm, extension No. 443, is informed about the matter.

Signed: WOHLTHAT

[Stamp]

Reich Office for Foreign Exchange Control

Certified:
[Illegible signature]
Justizsekretaer

[Illegible handwriting]
AC 4051
[Illegible handwriting]
[Handwritten] G. ALTENBURG

TRANSLATION OF DOCUMENT NG-1822
PROSECUTION EXHIBIT 58

MEMORANDUM OF DEFENDANT WOERMANN, 19 AUGUST 1938, CONCERNING PRIOR CONTRIBUTIONS OF THE FOREIGN OFFICE TO THE SUDETEN GERMAN PARTY IN CZECHOSLOVAKIA AND REQUESTS FOR ADDITIONAL CONTRIBUTIONS

[Stamp]
Foreign Office
Pol. I 1981 secret
Received 25 August 1938
[Handwritten] Under State Secretary Deputy Chief,
Political Division Page 2018

Secret

Memorandum

Ever since 1935 the Sudeten-German Party has been supported by certain contributions of the Foreign Office, namely, by a monthly payment of RM 15,000; of this amount RM 12,000 are transferred to the Prague Embassy for payment and RM 3,000 are paid to the Party branch office (Buerger's Office) in Berlin. Due to current negotiations with the Czechoslovakian Government the tasks set for Buerger's office have increased considerably during the last months. The number of pamphlets and maps pro-

[On margin:] to Herr Herold. [Initials] PR [Pruefer] 22/8 agreed.

duced and distributed by the office has risen, its newspaper propaganda activity has multiplied many times; the budget for expenditures has been increased especially by the fact that, due to the necessity for always keeping well informed the expenses have grown much larger for trips to Prague, London and Paris (also for the financing of trips by Sudeten-German representatives and liaison agents). Due to these circumstances and to meet all requirements asked of it, Buerger's office is no longer in a position to get along on its monthly allotment of RM 3,000. Therefore, Herr Buerger has requested the Foreign Office to increase this amount, from RM 3,000 monthly to RM 5,500 monthly. Considering the large increase in the business activities of the office

[Handwritten] G. Altenburg

[Handwritten] Po g Czechoslovakia

and the importance of the office activities as regards the cooperation with the Foreign Office, this request can only be urgently recommended.

933764O—51——52

To be submitted to Personnel Department with a request for approval.

An increase in the payments, retroactive to 1 August is requested. x

Berlin, 19 August 1938

[Signed] WOERMANN

[Handwritten] x Repatriation Office for Ethnic Germans [Volksdeutsche Mittelstelle] will be informed by Political Division. Herr Schmitt, Repatriation Office for Ethnic Germans has been verbally informed today about the current payments of the Foreign Office to the Sudeten-German Party [S.D.P.]

[Initial] A [ALTENBURG]
19 August

[Initial] A [ALTENBURG]
24 August

Disposition

1. Starting 1 August of this year the payments to the Buerger Office are increased until further notice to RM 5,500 monthly.

2. To Herr A. R. [Amtsrat] Herold for notarization [z. g. Not. u. m. V.]. [Illegible initials]

3. Herewith returned to Political Division IV.

[Initial] A [Altenburg]
24 August

Berlin, 23 August 1938

[Handwritten] file Political Division I

[Illegible initials] 24 August

[Signed] DIENSTMANN
[Illegible initials]

DOCUMENT TC–27[1]
PROSECUTION EXHIBIT 50

NOTE OF CZECH MINISTER MASARYK TO VISCOUNT HALIFAX, BRITISH FOREIGN SECRETARY, 12 MARCH 1938, CONCERNING ASSURANCES OF GOERING AND HITLER THAT DEVELOPMENTS IN AUSTRIA WOULD HAVE NO DETRIMENTAL INFLUENCE ON GERMAN-CZECH RELATIONS

GERMAN ASSURANCE TO CZECHOSLOVAKIA, 11 MARCH 1938

(R 2824/162/12)

No. 76

M. Masaryk to Viscount Halifax. (Received 12 March)
London, 12 March 1938

My Lord,

I have reported to my government the interview which you were good enough to grant me today.

I have in consequence been instructed by my government to bring to the official knowledge of His Majesty's Government the following facts: Yesterday evening (11 Mar) Field Marshal Goering made two separate statements to M. Mastny, the Czechoslovak Minister in Berlin, assuring him that the developments in Austria will in no way have any detrimental influence on the relations between the German Reich and Czechoslovakia and emphasizing the continued earnest endeavour on the part of Germany to improve those mutual relations.

In the first statement the Field Marshal used the expression: "Ich gebe Ihnen mein Ehrenwort."[2]

In the second statement Field Marshal Goering asserted that, having given his own word previously, he was now able to give the word of the head of the State, who had authorized him to take over temporarily his official duties. He then repeated the above assurances.

Today (12 Mar) Field Marshal Goering asked M. Mastny to call on him, repeated yesterday's assurances and added that the German troops, marching into Austria, have strictest orders to keep at least 15 kilometers from the Czechoslovak frontier; at the same time he expressed the hope that no mobilization of the Czechoslovak Army would take place.

[1] This document was introduced in the IMT trial as Exhibit GB–021. A certificate attached to the document, signed by a Deputy Under Secretary of State for Foreign Affairs in the British Foreign Office, states that the document contains the full text of a diplomatic note from the Czech Minister in London to the British Foreign Office.

[2] "I give you my word of honor."

M. Mastny was in a position to give him definite and binding assurances on this subject and today spoke with Baron von Neurath, who among other things, assured him on behalf of Herr Hitler that Germany still considers herself bound by the German-Czechoslovak Arbitration Convention concluded at Locarno in October 1929.

M. Mastny also saw today Herr von Mackensen, who assured him that the clarification of the Austrian situation will tend to improve German-Czechoslovak relations.

The Government of the Czechoslovak Republish wish to assure His Majesty's Government that they are animated by the earnest and ardent desire to live in the best possible neighbourly relations with the German Reich. They cannot, however, fail to view with great apprehension the sequel of events in Austria between the date of the bilateral agreement between Germany and Austria (11 July 1936),[1] and yesterday (11 Mar 1938).

I have, &c.
JAN MASARYK

TRANSLATION OF DOCUMENT 2788-PS
PROSECUTION EXHIBIT 59

NOTES ON A CONFERENCE IN THE GERMAN FOREIGN OFFICE ON SUDETEN-GERMAN QUESTIONS, 29 MARCH 1938, ATTENDED BY VON RIBBENTROP AND DEFENDANT VON WEIZSAECKER, AMONG OTHERS, CONCERNING THE DEMANDS OF HENLEIN'S SUDETEN-GERMAN PARTY UPON THE CZECHOSLOVAK GOVERNMENT[2]

[Stamp]
TOP SECRET
Pol I 789 g (IV)
[Illegible handwriting]

Secret

Top Secret, to be forwarded from person to person only against receipt.

Notes on the Conference on 29 March 1938, 1200 hours, in the Foreign Office on Sudeten-German Questions

In this conference the gentlemen enumerated in the enclosed list participated.

The Reich Minister started out by emphasizing the necessity

[1] Keppler Document 114, Keppler Defense Exhibit 55, reproduced earlier in section VI.

[2] This document was introduced in the IMT trial as Exhibit USA-095. The full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXI, pages 114-116.

to keep the conference which had been scheduled strictly a secret. He then explained, in view of the directives which the Fuehrer himself had given to Konrad Henlein personally yesterday afternoon that there were two questions which were of outstanding importance for the conduct of policy of the Sudeten-German Party:

1. The Sudeten Germans must realize that they are backed up by a nation of 75 million which will not tolerate a continued suppression of the Sudeten Germans by the Czechoslovak Government.

2. It is the task of the Sudeten-German Party to formulate such demands from the Czechoslovak Government as it deems necessary in order to obtain the privileges desired by it.

The Reich Minister explained in this connection that it could not be the task of the Reich government to give Konrad Henlein, whose position as the leader of the Sudeten Germans has been expressly acknowledged and again confirmed by the Fuehrer, detailed suggestions about what to demand from the Czechoslovak Government. It is essential to propose a maximum program, which as its final aim grants full freedom to the Sudeten Germans. It appears dangerous to be satisfied prematurely with the consent of the Czechoslovakian Government; this on the one hand would give the impression abroad that a solution has been found, and on the other hand would only partially satisfy the Sudeten Germans. In any case, caution is the proper thing, because one cannot have any confidence in the assurances of Benes and Hodza according to past experiences. The aim of the negotiations to be carried out by the Sudeten-German Party with the Czechoslovakian Government is finally this—to avoid entry into the government by the extension and gradual specification of the demands to be made. It must be emphasized clearly in the negotiations that the Sudeten-German Party alone is party to the negotiations with the Czechoslovakian Government, not the Reich government. The Reich government itself must refuse to appear toward the government in Prague or toward London and Paris as the advocate or pacemaker [Schrittmacher] of the Sudeten-German demands. It is a self-evident prerequisite that during the impending discussion with the Czechoslovak Government the Sudeten German would be firmly controlled by Konrad Henlein, would maintain quiet and discipline and would avoid indiscretions. The assurances already given by Konrad Henlein in this connection were satisfactory.

Following these general explanations of the Reich Minister the demands of the Sudeten-German Party from the Czechoslovak

Government as contained in the enclosure[1] were discussed and approved in principle. For further cooperation, Konrad Henlein was instructed to keep in the closest possible touch with the Reich Minister and the head of the Repatriation Office for Ethnic Germans, as well as the German Minister in Prague, as the local representative of the Reich Foreign Minister. The task of the German Minister in Prague would be to support the demands of the Sudeten-German Party as reasonable, not officially, but in more private talks with the Czechoslovak politicians without exerting any direct influence on the extent of the demands of the Party.

In conclusion there was a discussion whether it would be useful if the Sudeten-German Party would cooperate with other minorities in Czechoslovakia, especially with the Slovaks. The Foreign Minister decided that the Party should have the discretion to keep a loose contact with other minority groups if the adoption of a parallel course by them might appear appropriate.

Berlin, 29 March 1938

[Initial] R

List of those present in the conference on Sudeten-German Questions on Tuesday, 29 March 1938, 1200 hours.

Present:

Reich Minister von Ribbentrop	Foreign Office
State Secretary von Mackensen	
Ministerial Director Weizsaecker[2]	
Minister Eisenlohr—Prague	
Minister Stieve	
Senior Counsellor of Legation von Twardowski	
Counsellor of Legation Altenburg	
Counsellor of Legation Kordt[3]	
SS Lt. General Lorenz	Repatriation Office for Ethnic Germans [Volksdeutsche Mittelstelle]
Prof. Haushofer	
Konrad Henlein	Sudeten-German Party
Karl Hermann Frank[4]	
Dr. Kuenzel	
Dr. Kreissl	

[1] This enclosure was not found with the original document.

[2] At this time the defendant von Weizsaecker was chief of the political department. He did not become State Secretary until the following month, April 1938.

[3] Erich Kordt, staff member of the Ministerial Office of the German Foreign Office (Buero RAM). Erich Kordt should not be confused with Theodor Kordt, Charge d'Affaires in the German Embassy in London.

[4] Karl Hermann Frank, elected Deputy of the Sudeten-German Party to the Czech Parliament, May 1935; Deputy Leader of the Party, 1937; State Secretary with the Reich Protector, 1939–43; Chief of the SS and Police in the Protectorate of Bohemia and Moravia, 1939–45; Minister of State with the rank of Reich Minister, August 1943–45; *Documents on German Foreign Policy*, 1918–45, *op. cit.*, series D, volume II, page 1048.

TRANSLATION OF WOERMANN DOCUMENT 102
WOERMANN DEFENSE EXHIBIT 33

CODED TELEGRAM FROM DEFENDANT WOERMANN TO VON RIBBENTROP AND DEFENDANT VON WEIZSAECKER IN ROME, 7 MAY 1938, CONCERNING A CONVERSATION WITH BRITISH AMBASSADOR HENDERSON ON THE SUDETEN-GERMAN QUESTION

Berlin, 7 May 1938
Diplogerma
Rome No. 152

Telegram in code
(Secret Code)

Urgent!

To the Reich Minister and State Secretary.

The British Ambassador called on me today in order to state on behalf of his government that the British Minister at Prague had been ordered to lodge strong protests with the Czechoslovak Government to induce them immediately to find a solution of the Sudeten-German question on comprehensive lines, by directly negotiating with the Sudeten Germans. The British Government would inform the German Government of this and express the hope that the German Government will be ready to use their influence to promote a settlement.

The Ambassador added that he hoped to have an opportunity very soon after the return of the Reich Foreign Minister to deal with this question in more detail.

I told the Ambassador that in the absence of the Reich Foreign Minister I had to restrict myself to accepting his statement but that I could not say how it would be received. I gathered from his statement that the British Government was of the opinion that the question had to be settled directly between the Czechoslovak Government and Henlein. As is well known, this was also our opinion.

Henderson added confidentially and, as he said without instruction, that the British Government would not make any detailed recommendations at Prague regarding the type of settlement but that it was not the purpose of their intervention to bring about the solution of some pending individual questions; but a total solution on the basis of a state of various nationalities and not a Czechoslovak National State. Henderson answered in the affirmative my question whether the French Government was also taking similar steps at Prague. The Ambassador then added that the fact was that France was taking the part of the Czechs and Germany that of the Sudeten Germans. England supported Ger-

many in these efforts and he hoped very much that Germany would not refuse collaboration with England in this question, which might then lead to collaboration in other questions, too. I refrained from making any comment on this.

Finally Henderson repeated that France would consider a solution by force cause for war and that it could not be foreseen what consequences that would have for England. But England wanted a peaceful settlement at all costs.

As Henderson is informing the press of the step taken, I made public through the German News Agency, with the consent of Henderson, that the British Ambassador had informed the German Government that the British Government has taken steps at Prague in order to achieve a solution of the Sudeten-German question.

[Handwritten] Interested [diplomatic] Missions will receive telegram for information.

WOERMANN*

TRANSLATION OF DOCUMENT NG-5034
PROSECUTION EXHIBIT 3516

MEMORANDUM FROM THE DEFENDANT VON WEIZSAECKER TO THE DEFENDANT WOERMANN, 12 MAY 1938, CONCERNING THE ITALIAN POSITION IN THE EVENT OF CONFLICT BETWEEN GERMANY AND CZECHOSLOVAKIA

Berlin, 12 May 1938

Strictly confidential

The political results of the Fuehrer's visit to Rome have been essentially reflected in the Fuehrer's and Mussolini's after-dinner speeches in the Palazzo Venezia. In dealing with our missions these fundamental statements are supplemented by informative telegram *ex officio* IV Pol. 3210.

I wish to lay down a few more points for confidential departmental use.

Comments by Mussolini and Ciano indicate quite clearly that in the event of a conflict between Germany and Czechoslovakia, Italy will stand on the alert [Gewehr bei Fuss], and while she has no intention to obstruct the German action, she will not actively support Germany's intentions with regard to Prague.

On the basis of the conversations of the Fuehrer with Mussolini

* At this time the defendant Woermann was Chief of the Political Department of the Foreign Ministry. He had succeeded defendant von Weizsaecker in that position in April 1938. The defendant von Weizsaecker was now State Secretary in the Foreign Ministry.

and of the Reich Foreign Minister with Ciano and Mussolini, this Italian attitude is taken by us to mean that the Italians do not overestimate the dangers which a German-Czech conflict might involve. Italy has confidence in our ability to settle the Czechoslovakian question without European conflict and does not believe that France and England are ready to lend Czechoslovakia armed assistance.

The conversations showed furthermore that the Italian policy, for the time being, is directed towards consolidation and rest but at the same time towards increased security and rearmament. It must not be concluded from the foregoing that Italy can be regarded also in future as having reached the saturation point in the Mediterranean but it appears the future Italian aims in the Mediterranean have not yet been determined. However, it is to be assumed that they will be directed against France, while leaving England alone as far as possible.

There was no indication of any appetite for Spanish possessions. Italy's policy in relation to Spain as well as China does not appear to have changed. There was bad feeling against the United States, disdain of Russia. The French internal development was regarded as decadent and drifting towards civil war.

[Signed] WEIZSAECKER

To Under State Secretary Woermann (personally) with request to return.

[Initial] W [WOERMANN] 12 May

TRANSLATION OF VON WEIZSAECKER DOCUMENT 206* VON WEIZSAECKER DEFENSE EXHIBIT 48

TELEGRAM FROM FRENCH AMBASSADOR IN BERLIN TO FRENCH FOREIGN MINISTER, 21 MAY 1938, CONCERNING ALLEGED CONCENTRATION OF GERMAN TROOPS ON THE CZECHOSLOVAK FRONTIER

Ciphered Telegram No. 2173/74

The French Ambassador in Berlin
To the Minister for Foreign Affairs
Berlin, 21 May 1938
Dispatched at . . . o'clock

DIPLOMATIE-PARIS

It is correct that Sir Nevile Henderson called upon Herr von Weizsaecker yesterday to inform him of the uneasiness to which rumors of concentrations of German troops on the Czech frontier had given rise in England.

Herr von Weizsaecker stated that nothing abnormal was happening.

* This translation is from the original French.

He nevertheless telephoned General Keitel. The latter stated that the source of the rumors in question was the perfectly normal movement of troops to the appointed sites for maneuvers.

Herr von Weizsaecker repeated to the British Ambassador that Wilhelmstrasse was doing everything in its power to recommend moderation to Herr Henlein and was making every effort to render possible the success of conciliatory methods. But this was all taking place before the incidents which the German press reports with such animation today. In such cases, moreover, Wilhelmstrasse is frequently kept in ignorance of the aims and intentions of the Party.

A. FRANÇOIS-PONCET

TRANSLATION OF DOCUMENT NG-5021
PROSECUTION EXHIBIT 3518

LETTER FROM DEFENDANT VON WEIZSAECKER TO THE GERMAN AMBASSADOR IN ROME, 23 JUNE 1938, CONCERNING ENDEAVORS OF THE ITALIAN GOVERNMENT TO SECURE AGREEMENT WITH GREAT BRITAIN AND RELATED MATTERS

Berlin, 23 June 1938

Personal and confidential!

Dear Friend,

From cabled instructions sent last night to Rome you will gather that some interest is shown here for the eagerness with which the Italian Government endeavors to secure its agreement with Great Britain [ihr Abkommen mit England unter Dach zu bringen sucht]. Do they consider this agreement of such importance that they would be prepared actually to curtail their present commitments in Spain? If this is actually the case, what fears or hopes induce them to take this course?

[Handwritten note] Reich Minister agrees.

Up to now one may rightly assume that the Italian fate is closely bound to the German destiny, that is, that the Italians would hardly be in a position to consider themselves as completely unconcerned in the case of a stronger engagement of Germany in another direction. It is a fact that during the more lively days in the second half of May the Italian missions not only in Berlin, but also in other places have shown considerable interest. Perhaps Attolico thought again of Czechoslovakia when he rather unexpectedly put the question about a week ago, as to what had

come out of the discussions during the Italian trip of the Fuehrer about a general political German-Italian arrangement. You yourself had received the instruction from Herr von Ribbentrop towards the end of the Fuehrer's trip not to take the initiative on your part with regard to these discussions, and we also have avoided doing so here. After Attolico's inquiry, however, the Reich Minister in conversation with the Ambassador has lightly touched the question as to Italy's present ideas. Herr von Ribbentrop did not make any proposals or specific suggestions to Attolico. He did, however, stress the importance, for the prevention of a war, of any action which would strengthen the axis anew in the eyes of the world. Whether and in what manner Attolico will react to this, remains to be seen. At present there is nothing to be done on your part in this matter. I inform you of the state of affairs in agreement with the Reich Minister purely for your personal information and request that you consider the letter in this light.

Best regards and Heil Hitler!

Signed: WEIZSAECKER

To—Ambassador von Mackensen German Embassy
Rome

TRANSLATION OF DOCUMENT NG–2390
PROSECUTION EXHIBIT 74

MEMORANDUM FROM DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN, AND TWO OTHERS, 25 JULY 1938, CONCERNING A DISCUSSION WITH THE ITALIAN AMBASSADOR TO GERMANY AFTER HUNGARIAN DIPLOMATIC OFFICIALS HAD VISITED ROME

5th copy
Berlin, 25 July 1938

Top secret and strictly confidential

Without having any written document in front of him, the Italian Ambassador [Attolico] today told me the following about the *Hungarian visit in Rome,* which might supplement the reports we have received from Rome to date:

Mussolini had taken up a favorable attitude to the economic requests of the Hungarians. In the sphere of politics it had been decided to keep to the spirit of the Roman agreement. Concerning the German-Italian relationship, Mussolini had talked to the Hungarian representative quite openly. He had stated that con-

nections with Germany were so close, that the relationship between the two powers was equivalent to a treaty of alliance. But he also was prepared to confirm this state of affairs in the form of a treaty. On Germany's intentions concerning Czechoslovakia, well known to Mussolini, he had also talked quite frankly. In this connection the problem had arisen, whether or not Hungary should, if necessary, attack [losschlagen] at the same time. It was, however, eventually decided that an interval would be necessary between the outbreak of hostilities [Ausbruch der Kriegshandlungen] between Germany and Czechoslovakia and Hungarian action, in order to ensure that Belgrade would remain neutral. The Hungarians had been informed, that it could be inferred from Ciano's interviews with Stojadinovic that Yugoslavia would stay out, if only Hungary would wait until she was provoked by Czechoslovakia and took such provocation as an excuse for starting hostilities.

The Hungarian Prime Minister had not, however, been satisfied with this but had expressed the wish that Rome should, for purpose of confirmation, make further tentative enquiries at Belgrade. The latter had been conceded to the Hungarians.

[Signed] WEIZSAECKER

To—

The Reich Minister
Under State Secretary [the defendant Woermann]
Director, Legal Division [Dr. Gaus]
Minister Aschmann

TRANSLATION OF DOCUMENT NG-3716
WEIZSAECKER DOCUMENT 346*
WEIZSAECKER DEFENSE EXHIBIT 56

THREE FILE NOTES OF DEFENDANT VON WEIZSAECKER, 12 JULY, 21 JULY, AND 19 AUGUST 1938, CONCERNING HIS DISCUSSIONS WITH FOREIGN MINISTER VON RIBBENTROP ON THE CZECHO-SLOVAKIAN QUESTION

1. Note of 12 July 1938

Berlin, 12 July 1938

On 9 July I explained to Reich Minister von Ribbentrop that in the Czech affair the military preparations which are being made here will result in our being confronted from abroad with the question whether or not we have warlike intentions. In my opinion just that state of affairs would then come about which Herr von Ribbentrop himself says he wants to avoid, that is, the alternative of going all out or of making an embarrassing withdrawal. In view of a certain letter from the High Command of the Armed Forces concerning preparations for this summer, I further documented my statements and declared that we must shortly make new decisions in the Czech affair, as the moment of surprise had already been missed. In my opinion the situation would have to be made clear to the Fuehrer.

The Reich Minister agreed with my statements.

On the basis of new material I have today repeated similar statements to Herr von Ribbentrop.

[Signed] WEIZSAECKER

2. Note of 21 July 1938

Berlin, 21 July 1938

In two discussions Herr von Ribbentrop today enjoined me to see to it that the Foreign Office maintained a firm and unwavering attitude to the Czech question to all sides. If necessary he said we would allow a major war with the Western Powers to break out and we should win it. The French could be decisively crushed in a major engagement in western Germany. We were equipped with enough raw materials to wage a war of any duration, and

* This document was one of hundreds of German documents secured by Allied investigators. A photostatic copy of it was brought to Nuernberg and registered in the "NG" (Nuernberg Government) series of documents in the central document room of the Office United States Chief of Counsel for War Crimes. The prosecution did not offer the document in evidence during its case in chief in the Ministries case. However, pursuant to an order of the Tribunal, the defense were given access to the prosecution's documentary files which in any way involved the defendants. This accounts for the fact that this document, which the prosecution had not previously offered, bears both a prosecution and a defense document number but only a defense exhibit number.

Goering was directing aircraft construction in such a way that we were superior to any enemy.

I remarked that to third persons one must talk in such a manner that they believe you [dass man Glauben findet]. I said that even when it was our task to fool foreign countries, it was our duty not to fool ourselves. I did not believe that we would win this war. It was a basic truth that one could only conquer a country if one either occupied it or starved it out. To want to do this with airplanes was a Utopian dream; so I did not understand how we could win the war, nor did I believe in our powers of endurance. Herr von Ribbentrop then admitted that one could also consider postponing the war against Czechoslovakia and that the Czech problem could be solved by making Czechoslovakia a secondary theater of war when the expected clash [Zusammenstoss] with France and England took place, that is, within the next few years. Speaking from a military point of view, he said, time was on our side.

To this observation I added my earlier suggestion that the process of the structural disintegration of Czechoslovakia be accelerated by economic pressure. However, I added, as previously mentioned, that it was not a question of a surprise German operation, since the man in the street knew all about it; the only issue now was to find an answer to the questions which the foreign countries would ask concerning our military preparations which would not prejudice correct decisions which we would make later. R. did not dispute this.

3. Note of 19 August 1938

In a discussion with Reich Minister von Ribbentrop on 19 August he explained to me that the Fuehrer was firmly resolved to settle the Czech affair by force of arms.* He set the middle of October as the latest possible date on account of flying conditions. The other powers would definitely not do anything about it and if they did we would take them on as well and win. I again opposed this whole theory and observed that we should have to await political developments until the English lost interest in the Czech matter and would tolerate our action before we could tackle the affair without undue risk. Herr von Ribben-

* The IMT found that the decision to seize Austria and Czechoslovakia by force was taken as early as 5 November 1937. Referring to the conference of Hitler, Goering, von Ribbentrop, von Neurath, and certain military leaders, which was reported in the "Hossbach" memorandum, the IMT stated in its judgment: "The decision to seize Austria and Czechoslovakia was discussed in some detail; the action was to be taken as soon as favorable opportunity presented itself * * *. The conference of 5 November 1937 made it quite plain that the seizure of Czechoslovakia by Germany had been definitely decided upon. The only question remaining was the selection of the suitable moment to do it." Trial of the Major War Criminals, *op. cit.*, volume I, pages 191 and 194.

trop wanted to put the question of responsibility in such a way that I was responsible only to him, he only to the Fuehrer and the Fuehrer alone to the German nation, whereas I maintained that one's way of thinking had to be based on such an ideology in order to carry it out to the best advantage. Herr von Ribbentrop said that the Fuehrer had not yet been wrong and that his most difficult decisions and acts (occupation of the Rhineland) were already behind him. One must believe in his genius as he, R. did, from long years of experience. If I had not yet come to the point of blind faith in this matter—as I had expressly told Ribbentrop—he urged me amicably to do so. He said I would certainly regret it later if I did not do so and if this fact were later to speak against me.

Otherwise the discussion was without incident and as between two close confidants. In it Ribbentrop tried to emphasize his point of view with many military considerations.

I should perhaps mention further that according to Ribbentrop the Fuehrer himself will march into Czechoslovakia at the head of the first panzer division. The Foreign Minister is apparently to accompany him into the field. Instead of Herr von Neurath, whom the Fuehrer apparently wishes to deputize for him at home, Ribbentrop wants to assign this duty to me.

[Handwritten] 19 August 1938

TRANSLATION OF WEIZSAECKER DOCUMENT 355
WEIZSAECKER DEFENSE EXHIBIT 58

REPORT SUBMITTED BY DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 30 AUGUST 1938, CONCERNING GERMANY'S PREPARATIONS FOR WAR WITH CZECHOSLOVAKIA, THE ATTITUDE OF VARIOUS COUNTRIES TO THE OUTBREAK OF WAR, THE NECESSITY FOR THE REVISION OF GERMAN POLICY TO AVOID WAR, AND RELATED MATTERS

[Handwritten] pr. 31 August 1938

[Handwritten] St. S. No. 28–38 Secret Reich Matter

Berlin, 30 August 1938

To the Reich Minister,

I am herewith reporting back from the Stuttgart conference of the Foreign Organization [Auslandsorganisation].* In lieu of an oral report on my analysis of the present political situation, I take the liberty of submitting the enclosed brief.

Signed: WEIZSAECKER

* The defendant Bohle was Chief of the Foreign Organization of the Nazi Party. At this time he was also Chief of the Foreign Organization in the Foreign Office, a position established on 30 January 1937 (see Document 2075–PS, Pros. Ex. 663, reproduced immediately below). The reference here is to a meeting of the Foreign Organization of the Nazi Party.

Strictly Secret!

The political situation at the end of August 1938

Germany is keyed up to a war against Czechoslovakia and is proceeding at full steam with the preparations for it [Deutschland ist auf den Krieg gegen die Tschechoslovakei eingestelt und in voller Vorbereitung dazu]. These preparations are to a large extent known abroad. From the middle of September further preparations (troop concentrations) are going to take place which will not go unnoticed abroad either. The surprise element is therefore absent.

Hungary, although shrinking from a war at the present moment, yet does not want to stand aside, as long as it can be sure of not being faced with a war on three fronts. Hungary is therefore ready for war under certain conditions.

Italy does not at present indicate any objections against a German-Czech conflict, as Mussolini appears to think that it can be kept to a local scale. In the event of its broadening out into a European war, Italy is not bound by any obligations arising from treaties in black and white but from Mussolini's public statements of solidarity. The value of these statements is not to be estimated with certainty. At present Italy does not seem either to desire or, on the other hand, to shrink entirely from a European war.

Czechoslovakia is playing for high stakes and confident of foreign aid, would not shun the war.

Britain and France want to prevent the war with all the means in their power but are not yet ripe for the decision to sacrifice their friendship for Czechoslovakia to the interests of peace.

Poland is watching and wants to keep all possibilities open. Poland does not at present officially seek contact with Germany.* Certain is only that in the event of war, Poland will not tolerate the Russians in the country.

* No information has as yet been received here concerning the recent talks between the Polish Ambassador and an Emissary of [Foreign] Minister Beck and Field Marshal Goering.

The next few weeks will see the growth of the Czech question from a local crisis into a European one. The great European powers will then show their alignment more clearly in the diplomatic as well as the military spheres. Soon there won't be any more room for doubt that, in case of an invasion of Czechoslovakia, Germany would be faced with the Western Powers as opponents. In view of this situation, the leading lights of German policy [Fuehrung der deutschen Politik] have got to review their plans quickly. If they should fail to do so a European

war would develop after a short warming up period following upon the German. Such a war would sooner or later end with a German capitulation. The coalition of Western Powers, can, if they so desire, decide the war without a great sacrifice of lives, simply by blockading Germany. It is obvious what such a defeat would mean for Adolf Hitler's reconstruction program.

We do not, however, have to sacrifice the fruits of our Czech policy up to the present, when switching our operations away from war. Whatever can be gained from the situation at the present time, can be achieved through negotiations, in which case the reduction of our military preparations would have to proceed *pari passu* with the conciliatory measures of our opponents.

Whether at a later date, the occasion and even necessity for military intervention against Czechoslovakia will arise again will depend on whether the Czechs, as is to be expected, continue to oppress the Sudeten-Germans, gambling away the French and British support and thus expose their flank to a German surprise blow [deutschen Ueberraschungsschlag]. In the meantime, a growing German economic pressure would have to be brought to bear on Czechoslovakia.

TRANSLATION OF DOCUMENT 2075–PS
PROSECUTION EXHIBIT 663

DECREE OF HITLER AND VON NEURATH, 30 JANUARY 1937, CONCERNING THE APPOINTMENT OF DEFENDANT BOHLE AS CHIEF OF THE FOREIGN ORGANIZATION IN THE FOREIGN OFFICE

1937 REICHSGESETZBLATT, PART I, PAGE 187

Decree concerning the Appointment of a Chief of the Foreign Organization in the Foreign Office, 30 January 1937

I

For the uniform care of the Reich Germans in foreign countries, a Chief of the Foreign Organization in the Foreign Office is appointed, and to whom, at the same time, the leadership and processing of all affairs of Reich Germans abroad within the jurisdiction of the Foreign Office will be given.

II

(1) As chief of the Foreign Organization in the Foreign Office, Gauleiter Ernst Wilhelm Bohle, the Chief of the Foreign Organization of the Nazi Party, is designated.

(2) He is a personal and immediate subordinate to the Reich Minister for Foreign Affairs. His field of activity as chief of the Foreign Organization of the Nazi Party and his subordination as such to the deputy of the Fuehrer, remains unaffected.*

(3) His official title is Chief of the Foreign Organization in the Foreign Office.

III

The chief of the Foreign Organization in the Foreign Office participates in the sessions of the Reich Cabinet insofar as his field is concerned.

IV

The Reich Minister for Foreign Affairs in agreement with the deputy of the Fuehrer will issue the implementative regulations of this decree.

Berlin, 30 January 1937.

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Foreign Minister
FREIHERR VON NEURATH

TRANSLATION OF WEIZSAECKER DOCUMENT 356 WEIZSAECKER DEFENSE EXHIBIT 59

LETTER FROM THEODOR KORDT, CHARGÉ D'AFFAIRES IN THE GERMAN EMBASSY IN LONDON, TO DEFENDANT VON WEIZSAECKER, 1 SEPTEMBER 1938, COMMENTING UPON REACTIONS OF THE BRITISH FOREIGN OFFICE AND BRITISH LEADERS TO INFORMATION THAT HITLER INTENDS TO SOLVE THE CZECH QUESTIONS BY FORCE

German Embassy London, 1 September 1938

My dear Herr von Weizsaecker:

From an absolutely reliable source I just learned the following details concerning the British Government's deliberations with respect to the problem of Czechoslovakia:

In the course of yesterday, the British Government received information according to which the Fuehrer intends to solve the Czech questions by force [mit Gewalt]. These items of informa-

* Several documents concerning the organization and function of the Foreign Organization of the Nazi Party as well as extracts from the testimony of the defendant Bohle are reproduced in Volume XIII, section XII.

tion chiefly originate from Churchill, Vansittart, and Christie. In yesterday's talk with Lord Halifax, Churchill pointed out the necessity for timely and energetic action on the part of the British Government if they still wanted to prevent the outbreak of a war. He therefore suggested the following measures: Concentration of the Navy in the North Sea coupled with at least partial mobilization, Berlin at the same time to be warned against any attempt to solve the Czechoslovak question by force; in connection with this, "a fair offer" to be submitted concerning the Sudeten-German problem. I was unable to learn what should constitute this "fair offer" in Churchill's opinion. It is interesting in that connection that Sir Robert Vansittart who holds the same view, considers as a "fair offer" that the Sudeten-German minority be given complete "home rule." Colonel Christie, an intimate friend of Vansittart's, goes one step further in that direction—he suggests a plebiscite in the Sudeten-German region.

According to my information, Lord Halifax' reply to all three gentlemen was similar. He first thanked them for their intimations and indicated he had received information to the same purpose from other quarters as well.

The British Government was unable to imagine that the Fuehrer would pursue such a policy which in all probability was bound to lead to a world war. Yet in order to be prepared for any eventuality, it had established close contact with the dominions. Furthermore, it is in constant touch with the French Government on the subject. No final decision had as yet been taken. However, Britain would be prepared in the decisive hour [entscheidende Stunde]. Everything depended on whether France considered this a case provided for in the treaty. It was his personal opinion that France would consider it irreconcilable with her honor to leave Czechoslovakia in the lurch in case of a threat to its existence.

Lord Halifax furthermore made it clear to Mr. Churchill that the British Government did not intend from now on to open discussions with prominent members of the House of Commons.

Above report comes from a British personage who is in sympathy with us. In the Foreign Office all non-German visitors are given to understand quite openly that Britain would not yield again this time, as the other time in the case of Italy. The policy of the year 1935 had produced the most severe consequences and Britain had to make up its mind to confront the Germans with a categorical "stop" in conjunction with its allies, if need be by force of arms. I did not expect a different attitude from the Foreign Office, where we do not have any friends apart from a few junior officials. As reported already repeatedly by the Em-

bassy, the Foreign Office stands in hardly disguised opposition to Chamberlain. This was particularly apparent in July of this year in regard to the Spanish question when the Foreign Office, making strange bedfellows with the diehards and the Left, tried to persuade Chamberlain to intervene against Franco because of the bombardment of British ships.

When I said goodbye to you, you asked me to make a point of it to follow matters as closely as possible. I do not believe that the British in conjunction with the French Government have as yet arrived at a decision for the event of a German invasion of Czechoslovakia. A large section of the press is of course today already shouting alarm. I tried to the best of my ability to separate the propaganda from the discernible facts, in accordance with the Herr Reich Minister's admonition in his decree dated 3 August of this year. The storm signals are, however, clearly to be seen. The present alignment of public opinion lacks the signs of hysteria, which were still apparent—I should like to call it reassuringly apparent—on 20 and 21 May. In its place there is growing that mood of grim determination upon which all the momentous decisions of British politics were based. The attacks against Chamberlain, which only 4 weeks ago, appeared to be seriously jeopardizing the Prime Minister's position, have died down completely. In their place, the following idea spreads among the popular masses "If Chamberlain, whose desire to achieve a compromise with Germany was shown so clearly, fails to preserve the peace, then we feel really sure that there is no other way but to go to war." That mood is reminiscent of the mood prior to the outbreak of World War I. At that time, the leader of the Ulster Conservatives, Sir Edward Carson, said in the House of Commons, the Conservatives were prepared to postpone their plan for—if needs be—armed resistance against the Asquith government's "home rule" policy "in order that Britain may be in a position to speak and act with the authority of a united people."

I thank you very much for your letter dated 27 of the previous month which shall be my guidance during further conversations. Herr von Dirksen asked me urgently for a report concerning the events here. Assuming your consent, I let him have copy of my letter dated 23d of this month together with enclosure. If, for some reason, you should desire Herr von Dirksen not to make use of the contents of that letter, I should appreciate it particularly much if you were to instruct him accordingly. I asked Herr von Dirksen to get your authorization if necessary.

[Handwritten] With best regards and Heil Hitler!

Yours very obediently

[Signed] TH. KORDT

PARTIAL TRANSLATION OF DOCUMENT 2194–PS
PROSECUTION EXHIBIT 549

THE REICH DEFENSE LAW, 4 SEPTEMBER 1938, PROVIDING MEASURES FOR A "STATE OF DEFENSE" AND RELATED MATTERS*

TOP SECRET

[Stamp] To GRS Nr. 10/39
[Stamp] 1432

Reich Defense Law [Reichsverteidigungsgesetz] of 4 September 1938

The Reich Government has decided on the following law which is announced herewith.

I. State of Defense

Paragraph 1

(1) As possessor of the complete power of state, the Fuehrer and Reich Chancellor can decree for the Reich territory or its parts a "State of Defense" [Verteidigungszustand].

(2) If the political situation demands it the Fuehrer and Reich Chancellor decrees the "Mobilization." The mobilization can be limited to a part of the Reich or of the armed forces.

Paragraph 2

(1) Once the territory of the operation is determined the Commander in Chief of the Army and the army commanders have upon declaration of the state of defense without further order the authority to exercise executive power in this operational territory.

(2) The commanders exercising executive powers can, effective for the territory of operations, promulgate laws, institute special courts, and issue directives to the officials and offices competent in the territory of operations, with the exception of the supreme Reich officials [Reichsbehoerden], the supreme Prussian state officials [Landesbehoerden], and the Reich leaders [Reichsleitung] of the NSDAP. The lawfulness of directives precedes directives from otherwise superior offices.

(3) The boundaries of the territory of operations are determined by the Supreme Commander of the Armed Forces.

(4) Special directives for the case of a surprise threat to the Reich territory. If a part of the Reich territory is surprised by

* This document was received in evidence in the IMT trial as Exhibit USA–036, the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXIX, pages 316–327.

a military threat, and if special decrees for defense against this danger cannot be awaited, then the commanders of the imperiled service commands [Wehrkreise] have the right to issue the directives which cannot be delayed and which are necessary for the protection of the imperiled territory to all nonmilitary offices within the sphere of command. The same rights apply to the commanding admirals of the Navy in case of surprise threats against the coastal territory, and to the commanders of air districts in case of surprise attacks from the air within the framework of their war tasks [Kriegsaufgaben]. The execution of these directives has precedence over the other commitments and the directives of superior offices. The named commanders can transmit their right of issuing directives to subordinate officers down to the local commander [Standortaelteste].

Paragraph 3

(1) With the declaration of the state of defense the Plenipotentiary General for the Reich Administration [Generalbevollmaechtigte fuer die Reichsverwaltung—GBV] [Frick] named by the Fuehrer and Reich Chancellor takes over the uniform leadership of the nonmilitary administration with exception of the economic administration. To him are subordinate—

The Reich Minister of the Interior [Frick]

The Reich Minister of Justice [Guertner]

The Reich Minister for Science, Education and Popular Education [Rust]

The Reich Minister for Religious Matters [Kerrl]

The Reich Office for Space Allocation [Raumordnung] [Kerrl]

(2) The GBV must comply with the demands of the Supreme Command of the Armed Forces (OKW) which are of considerable importance for the armed forces. If the demands cannot be brought in accord with the affairs of the Reich administration the Fuehrer and Reich Chancellor makes the decision.

(3) The GBV has the right within his sphere to issue laws with the consent of the OKW and GBW [Plenipotentiary General for the Economy] which differ from the existing laws.

Paragraph 4

(1) With the declaration of the state of defense the Plenipotentiary General for the Economy, appointed by the Fuehrer and Reich Chancellor, takes over the direction of the economy except for the armament industry.

(2) It is the task of the GBW to put all economic forces into the service of the Reich defense and to safeguard economically the life of the German nation. To him are subordinate—

The Reich Minister of Economics [Funk]

The Reich Minister for Food and Agriculture [Darré]

The Reich Minister of Labor [Seldte]

The Reich Chief of Forestry [Goering]

The Reich Commissioner for Price Administration [Wagner].

He is furthermore responsible for directing the financing of the Reich defense within the realm of the Reich Finance Ministry and the Reich Bank.

(3) The GBW must carry out the demands of the OKW which are of considerable importance for the armed forces; and he must insure the economic conditions for the production of the armament industry directed immediately by the OKW according to its demands. If the demands of the armed forces cannot be brought into accord with the affairs of the economy [Belangen der Wirtschaft] then the Fuehrer and Reich Chancellor decides.

(4) The GBW has the right within his sphere to issue laws with the consent of the OKW and GBV which differ from the existing laws.

Paragraph 5

(1) The Reich Postal Minister, the Reich Transportation Minister, and the Inspector General for the German Road Net are, with the declaration of the state of defense, bound to the demands of the OKW for the immediate affairs [Belange] of the armed forces.

(2) The following will get orders from the OKW:

(*a*) The *Reich Transportation Minister* for the use of means of transportation.

(*b*) The *Reich Postal Minister* for the use and distribution of the complete communication connections to the armed forces and the other agencies.

(3) The Reich Transportation Minister must comply, with the declaration of the state of defense, with the demands of the GBW according to the directives given to him by the OKW for the use of the means of transportation.

(4) In the spheres of the Reich Postal Minister, of the Reich Transportation Minister, and of the Inspector General for the German Road Net, the chief of the OKW has the right to promulgate laws in accord with the GBW and GBV which differ from the existing laws.

Paragraph 6

The Reich ministers and chief Reich offices carry out the task within their spheres on their own responsibility, regardless of the special competence of the chief of the OKW, of the GBV, and of the GBW, according to paragraphs 3, 4, and 5.

Paragraph 7

For the shaping of the political will of the people the deputy of the Fuehrer of the NSDAP [Rudolf Hess] is responsible. He uses for that the NSDAP, its formations and coordinated units.

II. State of War

Paragraph 8

(1) If the fight with an external enemy is forced upon the German people the Fuehrer and Reich Chancellor declares the state of war.

(2) With declaration of the state of war, the war laws and war decrees come into force without further order. The legal consequences provided in other laws for the state of war become effective.

Paragraph 9

If the state of defense is not already declared beforehand the decrees about the state of defense go into effect with declaration of the state of war.

III. Preparatory Measures

Paragraph 10

The Reich Defense Council [Reichsverteidigungsrat—RVR]

(1) The task of the Reich Defense Council consists in peacetime in the decision on all measures for the preparation of the Reich defense and the getting together of all forces and means of the nation according to the direction of the leader and Reich Chancellor. The tasks of the RVR in wartime will be specially determined by the Fuehrer and Reich Chancellor.

(2) The Fuehrer and Reich Chancellor is chairman in the RVR. His permanent deputy is Field Marshal Goering. He has the right to call conferences of the RVR. Permanent members of the RVR are—

The Reich Minister of Air and Supreme Commander of the Air Force [Goering]

The Commander in Chief of the Army [von Brauchitsch]

The Supreme Commander in Chief of the Navy [Raeder]

The Chief of the OKW [Keitel]
The Deputy of the Fuehrer [Hess]
The Reich Minister and Chief of the Reich Chancellery [the defendant Lammers]
The President of the Secret Cabinet Council [von Neurath]
The Plenipotentiary General for the Reich Administration [Frick]
The Plenipotentiary General for the Economy [Funk]
The Reich Minister of Foreign Affairs [Ribbentrop]
The Reich Minister of the Interior [Frick]
The Reich Finance Minister [the defendant Schwerin von Krosigk]
The Reich Minister for Public Enlightenment and Propaganda [Goebbels]
The President of the Reich Bank Directorate [Schacht]

The other Reich ministers and the Reich offices directly subordinate to the Fuehrer and Reich Chancellor are consulted if necessary. Further personalities can be called as the case demands.

Paragraph 11

The Reich Defense Committee [*Reichsverteidigungsausschuss —RVA*]

(1) The Reich Defense Committee is the working committee of the RVR. It prepares the decisions of the RVR, sees to their execution, and secures collaboration between armed forces, supreme Reich offices, and Party.

(2) Presiding is the Chief of the OKW. He regulates the activity of the committee and gives the directions to the GBV and GBW and to the Reich Ministries not subordinated to them and to the Supreme Reich offices according to the decisions of the RVR, which directions are necessary for securing their uniform execution.

(3) The RVA is composed of the OKW, Deputy of the Plenipotentiary for the Four Year Plan, the leadership staffs of the GBV and GBW, and the Reich defense Referenten.

(4) Chief office officials [hauptamtliche Referenten] for the Reich defense (RV-Referenten) and their deputies are located at [the office of] the Deputy of the Leader, at the Reich Chancellery, at each Reich Ministry, at the Reich Leader of the SS and Chief of the German Police, at the Reich Work Leader, at the Reich Forest Master, at the Inspector General for the German Road Net, at the Reich Office for Regional Planning, at the Reich Bank Directorate, and in the Prussian State Ministry. The RV-Referent and

his deputy are immediately subordinate to the Minister or the State Secretary, and to the Chief of the Reich office respectively.

Paragraph 12

The uniformity of the preparations for the start and the course of the mobilization is secured by the OKW.

As regards the actual formulation of the preparations, the GBV and GBW make the arrangements for their sphere.

Paragraph 13

The Plenipotentiary General for the Reich Administration (GBV)

The GBV conducts the preparations for the Reich defense in the sphere of the ministries and Reich offices subordinate to him according to paragraph 3. They are bound by his directions already in peacetime.

Paragraph 14

The Plenipotentiary General for the Economy (GBW)

(1) The GBW conducts the economic preparations for the Reich defense as far as they do not come in the sphere of the OKW as regards the armament industry.

(2) The GBW must secure the economic conditions for the production of armament industry immediately directed by the OKW according to its demands.

(3) The ministries and Reich offices named in paragraph 4 (2) are, within the framework of these directives, already bound for the preparation of the Reich defense to the directions of the GBW, the Reich Transportation Minister to his demands according to paragraph 5 (3).

IV. Final Directives

Paragraph 15

Penal Directions

Whoever acts against the orders of a decree promulgated on the basis of this law, on purpose or negligently, will be punished with a jail sentence and money fine or with one of these punishments, if the act is not punishable with a heavier sentence according to other decrees.

Paragraph 16

Execution and Supplementary Directives

The OKW promulgates in agreement with GBV and GBW the law and administrative directives necessary for the execution and supplementation of this law.

The law takes effect immediately.

Berchtesgaden, 4 September 1938

The Fuehrer and Reich Chancellor
Signed: ADOLF HITLER
Signed: GOERING
Field Marshal

The Deputy of the Fuehrer
Signed: R. HESS

The Reich Minister of the Interior
Signed: FRICK

The Plenipotentiary General for Economics
Signed: WALTER FUNK

The Reich Foreign Minister
Signed: RIBBENTROP

The Chief of the OKW
Signed: KEITEL

The Reich Minister and Chief of the Reich Chancellery
Signed: DR. LAMMERS

Berchtesgaden, 4 September 1938

Note to the Reich Defense Law

1. The Publications of the Reich Defense Law of 4 September 1938, remains suspended.

2. The following laws and cabinet decisions are repealed effective immediately.

A. The Reich Defense Law of 21 May 1935.

B. Decision of the Reich Cabinet of 4 April 1933 to form a Reich Defense Council.

C. Rectification and completion of 13 December 1934 of the decision of the Reich Cabinet of 4 April 1933.

D. Decision of the Reich Cabinet of 21 May 1935 on activity of the GB in peacetime.

The Fuehrer and Reich Chancellor
Signed: ADOLF HITLER

The Reich Minister and Chief of Reich Chancellery
Signed: DR. LAMMERS

[Stamp] Top Secret

Enclosure to,* RL/LV 1.2861/39G Secret
The Reich Minister for Transportation,
RL/V 1.2173/39 Top Secret.

Berlin, 17 July 1939
44 plus 2 copies, No. 45.

To the Subordinate Authorities of the Reich and the states as well as the Central Authorities of the states to whom are attached:

(*a*) Waterways Plenipotentiaries (Wbv)
(*b*) Plenipotentiaries for local Transportation (Nbv)
(*c*) Plenipotentiaries for ocean traffic (Sbv)

to each individually:

Subject: Protection of the secrecy of the Law for the Reich Defense. (RV—Gesetz)

Reference: Decree of 7 October 1938 RL/W 10.2212/38, Top Secret

The Fuehrer has agreed to the tacit omission of the secrecy protection of the Reich defense law of 4 September 1938 transmitted with the corresponding decree. In spite of the greater ease in business correspondence thus created, the following limitations, which are herewith brought to your attention for compliance, have been ordered by the competent office.

1. *It remains prohibited* to cite the Reich Defense Law in public or connection with laws to be promulgated, as well as publication of the contents of the law in its entirety.

2. *It is permitted—*

a. The mention of all installations [Einrichtungen] founded on the Reich Defense Law and their functions in public without referring to the Law;

b. The cosignature by GBV and GBW of laws which are prepared and announced in peacetime for war.

By Order:
Signed: BAUR

* Other letters or memoranda transmitting this particular copy of the Reich Defense Law to a branch of the Ministry of Transportation have been omitted.

TRANSLATION OF WOERMANN DOCUMENT 106
WOERMANN DEFENSE EXHIBIT 36

CODED TELEGRAM FROM DEFENDANT WOERMANN TO THE GERMAN EMBASSY IN PRAGUE, 24 SEPTEMBER 1938, CONCERNING THE ARREST OF GERMANS BY CZECHOSLOVAKIA AND COUNTER ARRESTS OF CZECHOSLOVAKIAN OFFICIALS BY THE GERMANS

URGENT

Berlin, 24 September 1938
e.o. Pol 6424

[Handwritten] Ms. Pol. IV 6459 I.Ang.
268 Under State Secretary

Diplogerma

Prague
No. 268

Telegram in Code

At the Legal Department for cosignature.

According to reports received here, the Czechs arrested in Lundenburg 2 German officials of the border police, 7 customs officers and 30 railroad employees. [The following is crossed out on the original document: "also three locomotives were retained"]. As a countermeasure all Czech personnel in Marchegg were arrested. We are prepared to exchange the seized Czech officials against the German officials. Please contact the government there and wire the results of the action.

WOERMANN

[Initial] W [Woermann]
24 September

[Handwritten] Co 2150

[Initial] H [Heinburg]
24 Sept.

[Initial] B 24 September

[in margin] *note.* This telegraphic instruction is a result of the telephonic request of the Secret State Police (Oberreg. Rat Wetz.).

[Handwritten] Concerning the locomotives, additional order will follow.
24 September
[Initial] A [ALBRECHT].

Dispatched: 24 September 17 55 per teletype
[Handwritten] Po. 6. T5.

PARTIAL TRANSLATION OF KOERNER DOCUMENT 311
KOERNER DEFENSE EXHIBIT 60

EXTRACTS FROM HITLER'S SPEECH IN THE SPORTPALAST IN BERLIN ON 26 SEPTEMBER 1938*

* * * * * * *

Hitler's Speech at the Sportpalast in Berlin of 26 September 1938, Document VI/I., Page 333 ff., Page 335

When thus for two years I had made to the world one offer after another, and when these offers always met with rejection and then once more rejection, I gave orders that the German Army should be brought to the best attainable conditions. And now I can proudly admit—we did then certainly complete an armament such as the world has never yet seen. I have in fact armed in these 5 years. I have spent billions on this armament.

* * * * * * *

Thus we have built up a military force of which today the German people can be proud and which the world will respect if at any time it makes its appearance. But in spite of this I have continued to follow up the ideas of the limitation of armaments and of a policy of disarmament. I have really in these years pursued a practical peace policy. I have approached all the apparently insoluble problems with the firm resolve to solve them peacefully even when there was the danger of making more or less serious renunciations on Germany's part. I myself am a front-line soldier and know how grave a thing war is. I wanted to spare the German people such an evil. Problem after problem I have tackled with the set purpose of making every effort to render possible a peaceful solution.

* The extracts from this speech were taken from the German publication "Dokumente der deutchen Politik", volume V, Junker und Duennhaupt Verlag, Berlin, 1940. All the extracts from this speech which were included in the defense exhibit are reproduced here. However, the document included extracts from numerous other speeches of Hitler and others.

TRANSLATION OF WOERMANN DOCUMENT 111
WOERMANN DEFENSE EXHIBIT 41

MEMORANDUM FROM DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN, AND THREE OTHERS, 27 SEPTEMBER 1938, CONCERNING INFORMATION GIVEN TO VON WEIZSAECKER BY THE POLISH AMBASSADOR ON POLISH DEMANDS UPON CZECHOSLOVAKIA AND RELATED MATTERS

Berlin, 27 September 1938

The Polish Ambassador[1] today told me the following:

Warsaw today received a memorandum from Prague referring to Polish demands, together with a letter from Benes to the President of the Polish State. Krofta[2] gave additional explanations to the same. It deals with territorial concessions to Poland as well as efforts directed towards a better relation between Poland and Czechoslovakia. Furthermore, the French and British Ambassadors in Warsaw had made démarches, during which it was stated that Prague considered the Polish demands legitimate.

Today the following demands had been made in Prague by Poland:

1. Separation of the purely Polish territories from Czechoslovakia.

2. Exercise of the right of self-determination of the Polish minority in the other territories.

(Signed) WEIZSAECKER

To—

The Reich Minister

Under State Secretary [the defendant Woermann]

[Initial] W [WOERMANN]

Dg. Pol.

Director, Legal Division

Minister Aschmann

[1] Josef Lipski, Polish Ambassador to Berlin, 1934–39.

[2] Dr. Kamil Krofta, Czechoslovak Foreign Minister, 1936–38.

938764O—51——54

PARTIAL TRANSLATION OF DOCUMENT 388-PS
PROSECUTION EXHIBIT 93

ORDER OF KEITEL, CHIEF OF THE ARMED FORCES HIGH COMMAND, WITH COPY TO VARIOUS PERSONS INCLUDING DEFENDANT SCHWERIN VON KROSIGK, 28 SEPTEMBER 1938, CONCERNING MOBILIZATION OF THE FRONTIER GUARD ON THE CZECHOSLOVAKIAN FRONTIER AND THE SUBORDINATION OF THE HENLEIN FREE CORPS TO THE GERMAN ARMED FORCES[1]

[Initials] SCHM. [SCHMUNDT][2]

[Stamp] Office of the Armed Forces Adjutant
Attached to the Fuehrer and Reich Chancellor.

Received: 3 October 1938

Requisition No.: 261/38 Top Secret

[Handwritten] Adj. to the Fuehrer
34

Berlin, 28 September 1938

High Command of the Armed Forces
No. 2310/38, Top Secret L I a

45 copies, 16th copy

Top Secret

To define spheres of responsibility on the Czech-German frontier the following orders are issued:

Through mobilization of the frontier guard [Grenzwacht] responsibility has shifted entirely onto the army, that is onto the competent corps command. All the units operating on the frontier are subordinate to it.

No new units of police, customs or Party may be shifted into the immediate frontier area without the knowledge of the army headquarters concerned, nor may units already in the area be reinforced without such knowledge. In addition no one may cross the frontier without the knowledge of the army headquarters.

For the Henlein Free Corps and units subordinate to it the principle remains valid, that they receive instructions direct from the Fuehrer and that they carry out their operations only in conjunction with the competent corps command. The advance units of the Free Corps will have to report to the local commander of the frontier guard immediately before crossing the frontier.

---

[1] This document was introduced in the IMT trial as Exhibit USA-026 and the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXV, pages 415-529.

[2] Schmundt, an officer in the German Army, made the famous notes on several of the secret conferences concerning Hitler's aggressive plans which are discussed in the judgment of the IMT under the subject "The Planning of Aggression." See Trial of the Major War Criminals, *op. cit.*, volume I, pages 188-192.

Those units remaining forward of the frontier [vorwaerts der Grenze] should—in their own interests—get into communication with the frontier guard as often as possible.

As soon as the army crosses into Czechoslovakia the Henlein Free Corps will be subordinate to the OKH. Thus it will be expedient to assign a sector to the Free Corps even now which can be adjusted later within the army boundaries.

The frontier guard has orders only to protect the German frontier, and not to take part in operations on the other side of the border. Any support to the Free Corps by the frontier guards anywhere is prohibited.

Chief of the High Command of the Armed Forces

[Signed] KEITEL

Distribution:

Distribution II, plus:

Reich Minister of the Interior
Reich Finance Minister
Deputy of the Fuehrer
S.A. Hqs.
Reich Leader SS
Reich Labor Service
Free Corps Henlein (Lt. Col. Koechling)

* * * * * * *

WEIZSAECKER DOCUMENT 25
WEIZSAECKER DEFENSE EXHIBIT 69*

THE MUNICH AGREEMENT OF 29 SEPTEMBER 1938, SIGNED BY HITLER, CHAMBERLAIN, DALADIER, AND MUSSOLINI

2871/564775–81

AGREEMENT SIGNED AT MUNICH BETWEEN GERMANY, THE UNITED KINGDOM, FRANCE, AND ITALY

29 September 1938

Agreement Reached on 29 September 1938, Between Germany, The United Kingdom, France, and Italy

Germany, the United Kingdom, France, and Italy, taking into consideration the agreement, which has been already reached in principle for the cession to Germany of the Sudeten-German territory, have agreed on the following terms and conditions governing the said cession and the measures consequent thereon; and by this agreement they each hold themselves responsible for the steps necessary to secure its fulfillment.

1. The evacuation will begin on 1 October.

2. The United Kingdom, France, and Italy agree that the evacuation of the territory shall be completed by 10 October, without any existing installations having been destroyed, and that the Czechoslovak Government will be held responsible for carrying out the evacuation without damage to the said installations.

3. The conditions governing the evacuation will be laid down in detail by an international commission composed of representatives of Germany, the United Kingdom, France, Italy, and Czechoslovakia.

4. The occupation by stages of the predominantly German territory by German troops will begin on 1 October. The four territories marked on the attached map will be occupied by German troops in the following order: the territory marked number I on 1 and 2 October, the territory marked number II on 2 and 3 October, the territory marked number III on 3, 4, and 5 October, the territory marked number IV on 6 and 7 October. The remaining territory of preponderantly German character will be ascer-

* Extracts from the Munich Agreement were also received in evidence as Document TC–23, Prosecution Exhibit 96. In a certificate accompanying the defense exhibit, which was in the German language, defense counsel certified that the exhibit was taken from the "French Yellow Book" concerning the background of hostilities in the Second World War. The English text reproduced here is taken from "Documents on German Foreign Policy, 1918–45, from the Archives of the German Foreign Ministry," series D, volume II, Government Printing Office, Washington D. C., 1949.

tained by the aforesaid international commission forthwith and be occupied by German troops by 10 October.

5. The international commission referred to in paragraph 3 will determine the territories in which a plebiscite is to be held. These territories will be occupied by international bodies until the plebiscite has been completed. The same commission will fix the conditions in which the plebiscite is to be held, taking as a basis the conditions of the Saar plebiscite. The commission will also fix a date, not later than the end of November, on which the plebiscite will be held.

6. The final determination of the frontiers will be carried out by the international commission. This commission will also be entitled to recommend to the four Powers, Germany, the United Kingdom, France, and Italy, in certain exceptional cases, minor modifications in the strictly ethnographical determination of the zones which are to be transferred without plebiscite.

7. There will be a right of option into and out of the transferred territories, the option to be exercised within 6 months from the date of this agreement. A German-Czechoslovak commission shall determine the details of the option, consider ways of facilitating the transfer of population and settle questions of principle arising out of the said transfer.

8. The Czechoslovak Government will, within a period of 4 weeks from the date of this agreement, release from their military and police forces any Sudeten-Germans who may wish to be released and the Czechoslovak Government will within the same period release Sudeten-German prisoners who are serving terms of imprisonment for political offenses.

ADOLF HITLER
ED. DALADIER
MUSSOLINI
NEVILLE CHAMBERLAIN

Munich, 29 September 1938

Annex to the Agreement

His Majesty's Government in the United Kingdom and the French Government have entered into the above agreement on the basis that they stand by the offer, contained in paragraph 6 of the Anglo-French proposals of 19 September, relating to an international guarantee of the new boundaries of the Czechoslovak State against unprovoked aggression.

When the question of the Polish and Hungarian minorities in

Czechoslovakia has been settled, Germany and Italy for their part will give a guarantee to Czechoslovakia.

ADOLF HITLER
NEVILLE CHAMBERLAIN
MUSSOLINI
ED. DALADIER

Munich, 29 September 1938

[*Composition of the International Commission*]

The four Heads of Government here present agree that the international commission, provided for in the agreement signed by them today, shall consist of the State Secretary in the German Foreign Office, the British, French, and Italian Ambassadors accredited in Berlin and a representative to be nominated by the government of Czechoslovakia.

ADOLF HITLER
NEVILLE CHAMBERLAIN
MUSSOLINI
ED. DALADIER

Munich, 29 September 1938

Additional Declaration

The heads of the governments of the four Powers declare that the problems of the Polish and Hungarian minorities in Czechoslovakia, if not settled within 3 months by agreement between the respective governments, shall form the subject of another meeting of the heads of the governments of the four Powers here present.

ADOLF HITLER
NEVILLE CHAMBERLAIN
MUSSOLINI
ED. DALADIER

Munich, 29 September 1938

Supplementary Declaration

All questions which may arise out of the transfer of the territory shall be considered as coming within the terms of reference to the international commission.

ADOLF HITLER
NEVILLE CHAMBERLAIN
MUSSOLINI
ED. DALADIER

Munich, 29 September 1938

EXTRACTS FROM AMBASSADOR HENDERSON'S BOOK "FAILURE OF A MISSION" CONCERNING NEGOTIATIONS SURROUNDING THE MUNICH AGREEMENT*

Act II. Czechoslovakia Scene II. Munich

* * * * * * *

It is worth recalling the exact sequence of events on that critical day. Goering went to see Hitler between 10:15 and 11:15 and was joined there by Neurath, who had forced his way in uninvited. Both were in favor of a peaceful solution by negotiation. At a meeting of Hitler and his advisers there had been some plain speaking, in which Goering had vehemently accused Ribbentrop of inciting to war. Among other things, it was related that Goering shouted that he knew what war was and he did not want to go through it again. If, however, the Fuehrer said "March," he would go himself in the first and leading airplane. All that he insisted upon was that Ribbentrop should be in the seat next to him. He did say this or something like it but it was not in the Fuehrer's presence. But I believe that he did call Ribbentrop on that occasion a "criminal fool." Nor, of the various factors which induced Hitler to abandon his idea of a Czech war, was Goering's intervention the least important.

Then came the Poncet interview, in the middle of which, at 11:40 a.m., Hitler left the room to see the Italian Ambassador, who had arrived with a preliminary urgent appeal from Signor Mussolini for the postponement of the so-called general mobilization for 24 hours. The Italian intervention proved the final and decisive factor for peace. It enabled Hitler to climb down without losing face. His first remark to me when I saw him at 12:15, immediately after Poncet, was: "At the request of my great friend and ally, Mussolini, I have postponed mobilizing my troops for 24 hours."

* * * * * * *

My interview with him, which lasted over an hour, was also interrupted by a second visit from the Italian Ambassador, this time to say that Mussolini himself was prepared to accept the

* The extracts reproduced here contain all the extracts from Henderson's book which were offered as a part of this exhibit. The extracts are taken from chapter V, pages 168–172. Further extracts from Henderson's book concerning "The Occupation of Prague" were offered as Weizsaecker Document 37, Weizsaecker Defense Exhibit 82, reproduced later in this section.

British proposals for a Four Power meeting, which had been telegraphed to Rome.

* * * * * * *

But as a matter of fact, everything was settled before ever I reached the Reichschancery that morning. Peace had been insured when Hitler agreed at Mussolini's request at 11:40 a.m., exactly two hours and twenty minutes before zero hour, to postpone his so-called general mobilization.

* * * * * * *

Though other factors combined to give Hitler cause for reflection, nothing but the Italian intervention could well have forced open again the door which Hitler had slammed behind him at the Sportpalast on Monday. The importance attached by Hitler to Mussolini's personal attendance at Munich is further proof of this. On that supremely critical Wednesday, the Italian Ambassador paid four visits to Hitler in 3 hours (the fourth was to notify Mussolini's personal attendance at Munich) and was about twenty times in telephonic communication with Rome. The lady telephonist who put through the calls in Rome was given later 2,000 lire by Signor Mussolini in appreciation of the services she had rendered. As Attolico said to me on the way down to Munich, "The communists have lost their chance; if they had cut the telephone wires today between Rome and Berlin there would have been war."

In my final report on the events leading up to the outbreak of war, I referred to the untiring efforts for peace of the Italian Ambassador. It was no less true of the 1938 crisis than it was of the 1939 one. His efforts failed this second August, as did those of the rest of us. But I have always in my own mind attributed a notable share of the success in preserving peace in 1938 to Attolico. He was, indeed, absolutely whole-hearted and selfless in the persistence of his exertions to save Europe from the horrors of war; and he devoted all his great tact and energy to that sole purpose. He was, moreover, very ably seconded by his wife, who spoke German fluently, which the Ambassador did not. While the Ambassador was travelling down by train with me to Munich, Madame Attolico, unknown to her husband, was herself flying to her favorite shrine in Italy to pray for that peace which he had worked so hard to insure.

The meeting of the four statesmen at the new Brown House at Munich began at 1:30 p.m. on the afternoon of the following day, 29 September. Mussolini had arrived by train from Rome and Daladier by air from Paris shortly before the Prime Minister. All three were enthusiastically acclaimed by the German people,

who filled the streets. Their discussions ended 13 hours later at 2:30 a.m. on the Friday morning. At no stage of the conversations did they become heated. The presence of Mussolini acted as a brake on Hitler, and the fact that the former had tactfully forwarded, as his own, a combination of Hitler's and the Anglo-French proposals, thereby defeating the intention of Ribbentrop, who was anxious to put forward a scheme of his own, made general agreement easier all round.

* * * * * * *

TRANSLATION OF DOCUMENT NG–1789
PROSECUTION EXHIBIT 3520

CODED TELEGRAM FROM DEFENDANT VON WEIZSAECKER TO THE GERMAN MISSIONS ABROAD, 3 OCTOBER 1938, ANALYZING THE MUNICH AGREEMENT AND STATING THE NEED FOR EMPHASIZING THAT GERMANY HAS NO POLITICAL OR TERRITORIAL INTENTIONS IN SOUTHEASTERN EUROPE

Telegram decoding
(Secret Code System)
No. 194 dated 3 October [1938]

Very Urgent

The result achieved in the historic conference of the four leading statesmen, which completely satisfied the demands listed in the German memorandum, means an overwhelming success of the Fuehrer's policy in general and in the Sudeten-German question in particular. For the first time in history, a border revision based on the right of self-determination of the peoples could be achieved by peaceful means.

The fears cropping up in the press of various countries in southeastern Europe that the Munich result was dictated and constituted only the stepping stone to further German territorial demands in southeastern Europe, are completely without foundation.

Munich agreements [Abmachungen] merely mean the execution of measures concerning the cession of Sudeten-German territory, which has already been basically approved by Czechoslovakia.

If, as in this case, the four big powers are in total agreement on a European question, then this surely cannot easily be ignored in the future by other European powers. However, there exist neither with the German Government nor with the other interested powers, any plans or intentions, as far as we know, for a joint intervention. Concerning Germany, it must be emphasized again and again, that she does not pursue any political or even

territorial intentions there. On the contrary, she pursues only economic aims and intends to continue to do so in the future. The German attitude towards the ethnic Germans abroad is known; it will, however, never be a reason for fears as mentioned above. As far as it will be necessary, I ask you, therefore, to act in a reassuring manner in this sense.

The Diplomatic Political Correspondence will treat this subject.

WEIZSAECKER

(Decoded: Fi. II. Mu. Lz. 4 October 9:30 a.m.)

TRANSLATION OF DOCUMENT NG-5750
PROSECUTION EXHIBIT C-348

MEMORANDUM TO DEFENDANT VON WEIZSAECKER, 12 OCTOBER 1938, REPORTING UPON A TELEPHONE COMMUNICATION FROM GODESBERG CONTAINING HITLER'S DECISIONS ON THE FURTHER HANDLING OF CZECHOSLOVAKIAN QUESTIONS AND RELATED MATTERS AFTER THE CONCLUSION OF THE MUNICH PACT

[Handwritten] Under State Secretary

Telephone call from Godesberg, 1645 hours

Memorandum for the State Secretary

In his discussion with the Reich Foreign Minister on 11 October at Godesberg the Fuehrer decided the following:

I

The Germans will not demand a plebiscite for any more areas in Czechoslovakia.

II

The general trend of our further attitude to the International Commission is to pursue the aim of doing away with the International Commission as quickly as possible and to replace it at the earliest possible moment by direct negotiations with Czechoslovakia.

III

The final determination of the boundaries by the International Commission shall be achieved as quickly as possible. The determination of the actual physical boundaries will then be handed over exclusively to a German-Czech border commission.

IV

The International Commission shall resolve that all questions connected with an option are to be passed on for a direct ruling by Germany and Czechoslovakia.

(The competent department shall investigate whether it is possible to eject 27,000 Jews of Czech nationality from Vienna.)*

V

Endeavors must be made to obtain the consent of the Czechs to the construction of a Reichsautobahn [super highway] to follow the railway line Breslau-Zwittau-Brno-Vienna and at the same time to the internationalization of that railway line. In this connection the Czechs are to be offered the same privileges, as in the case of the internationalization of the railway line which passes through the Zwittau peninsula, on condition that they allow us a free hand in the construction of a super highway. Ambassador Ritter will likewise test the situation [sollentsprechend vorfuehlen] in the Economic Commission.

VI

The German view with regard to the surrender of material belonging to state factories and public utilities in the areas transferred, and to the return of the material taken along is to be steadfastly maintained.

VII

It must be stated energetically from the outset that Germany will never shoulder any part of the Czech national debts, as these debts were incurred by the Czechs for the purpose of waging war against Germany.

VIII

With regard to the question of Moravska Ostrava and Vitkovice, the State Secretary is to invite the Polish Ambassador to call on him and tell him the following:

Germany is not interested in Oderberg but in Moravska Ostrava and Vitkovice. Whether Moravska Ostrava and Vitkovice remain part of Czechoslovakia depends on further developments. If the future of those areas is brought up for discussion, we shall demand a plebiscite under international supervision.

IX

With regard to Bratislava first of all a principal attitude of complete restraint will be adopted and all questions connected with this problem will be examined in detail. If the Hungarians should approach us with claims to Bratislava, they should be told the following:

---

* Materials from the record concerning the treatment of Jews in countries occupied by Germany are reproduced in volume XIII, section IX B 1.

a. Germany is in principle sympathetic towards the Hungarian demands with respect to Czechoslovakia.

b. The Fuehrer has stated repeatedly that Germany will resort to arms only if German interests are at stake.

c. The Fuehrer invited the Hungarian Premier and Foreign Minister to visit him at Obersalzberg and advised them to take more energetic steps. But the Hungarians did nothing in the critical days which followed and consequently find themselves in their present difficult diplomatic position.

d. With regard to the present Czech-Hungarian negotiations, the point of view is that areas whose populations are clearly Hungarian shall go to Hungary; Germany likewise has not established any strategic boundaries but only those based on ethnic considerations.

e. If any differences remain, a plebiscite must take place under international supervision.

X

For the personal information of the State Secretary. If Hungary should mobilize, it would not be our intention to restrain the Hungarians and advise moderation.

Godesberg, 12 October 1938

TRANSLATION OF DOCUMENT NG-3250
PROSECUTION EXHIBIT 104

MEMORANDUM FROM DEFENDANT VON WEIZSAECKER TO DEFENDANT WOERMANN AND FOUR OTHERS, 10 NOVEMBER 1938, REPORTING UPON HIS DISCUSSION WITH THE CZECHOSLOVAK OFFICIAL, STOUPAL

Berlin, 10 November 1938

I received Mr. Stoupal* today and, when questioned, told him that the German policy towards Czechoslovakia was one of good neighborly relationship insofar as the will expressed by Mr. von Chvalkovsky for a close cooperation with Germany would be realized, but it seemed to me that there was still something amiss in government circles in this respect. I referred among other things to the long drawn-out course of the economic negotiations. As Mr. Stoupal started to speak of the border question, I told him brutally that in this respect his government had made a bad mistake and would have to react positively to the solution pro-

* Stoupal was a member of the Czechoslovak Commission appointed by the Czechoslovak Government to deal with the complicated border questions arising from the occupation of the Sudetenland.

posed by us today. I told him furthermore that his party might show its will to come to an arrangement with Germany in the treatment of employee contracts in order to oppose dismissals of national or racial Germans.

Mr. Stoupal proposed the establishment of bi-national incidents commissions, an idea which is allegedly propagated by Herr Kundt too. I replied that there should be no incidents and that such commissions with a permanent character were rather out of place. In conclusion Mr. Stoupal pleaded for his party, which was charged with philo-Semitism [Judenfreundschaft] by the parties of the Left.

Mr. Stoupal did not express the wish to work together with any agencies of the NSDAP.

[Signed] WEIZSAECKER

To the Under State Secretary [Initial] W [Woermann]
The Dirigent Political Div.
Senior Legation Counsellor Altenburg
Ambassador Ritter
Minister Baron von Richthofen

TRANSLATION OF DOCUMENT 3575-PS
PROSECUTION EXHIBIT 106

MEMORANDUM BY DEFENDANT WOERMANN CONCERNING THE MEETING OF THE REICH DEFENSE COUNCIL ON 18 NOVEMBER 1938[1]

[Stamp] Submitted to the Minister
[Handwritten] Dispatched 20 November

Berlin, 19 November 1938

Top Secret

Memorandum concerning the meeting of the Reich Defense Council [Reichsverteidigungsrat] on 18 November 1938[2]

Chairman: Field Marshal Goering

All Reich Ministers and State Secretaries, with a few exceptions, were present, as were the Commander in Chief of the Army, the Commander in Chief of the Navy, the Chiefs of the General Staff of the three branches of the armed forces, Reichsleiter Bormann for the Deputy of the Fuehrer, General Daluege, SS

[1] This document was received in evidence in the IMT trial as USA Exhibit 781.

[2] A report on the second meeting of the Reich Defense Council on 23 June 1939 (Document 3787-PS, Pros. Ex. 553), is reproduced in part in section VI E (Poland) this volume.

Major General Heydrich, the Reich Labor Leader, the Price Administration Commissioner, the President of the Reich Labor Office, and others.

The meeting consisted solely of a three-hour lecture by the Field Marshal. No discussion took place.

These were the most important points raised at the meeting:

I. *Organization of the Reich Defense Council*

The Reich Defense Council had already been created through decisions of the cabinet in 1933 and 1934 but never met. Through the Reich Defense Law of 4 September 1938* it was reactivated. The chairmanship is vested in the Fuehrer, who has deputized Field Marshal Goering as his permanent representative.

The Field Marshal termed it the task of the Reich Defense Council to correlate all the forces of the nation for accelerated building-up of German armament.

He stated that armament in the narrow sense of the term would remain the responsibility of the departments of the armed forces, while integration of the economy would remain the task of the Plenipotentiary General for the Four Year Plan, or in some other form.

As a rule only the Reich Ministers concerned in each case with the particular questions would be convoked, not such a large group as today. As a rule the Reich Ministers themselves should attend. Should they be prevented from attending, their representatives would have to be authorized to take part in binding decisions during the meeting itself. Ministers could bring their State Secretaries. Special consultants could be brought into the antechamber and would be summoned in each case when their specialty was discussed. Particular questions could be referred for discussion to the Reich Defense Committee [Reichsverteidigungsausschuss] by the Reich Defense Council. The minutes of the former would then be returned to the Reich Defense Council for decision.

The terms "jurisdiction" [Federfuehrung] and "sphere of authority" [Zustaendigkeit] were unknown to him, the Field Marshal, and he did not care to hear them again. The agency best suited for a particular field of work would be entrusted with it in each case.

The Ministers represented in the Reich Defense Council would have to relegate to the background all individual wishes of their departments however justifiable they might appear, if they did not serve the single purpose of arming the people and they would

* Document 2194-PS, Prosecution Exhibit 549, reproduced in part earlier in this section.

have to make all decisions with a view to the general interest, not from the point of view of their departments.

Negotiations and decisions of the Reich Defense Council and Reich Defense Committee are absolutely secret and may be divulged, even within a department, only insofar as necessary to carry out the assignments.

II. *The Physical Tasks*

The assignment is to raise the level of armament from a current index of 100 to one of 300.

This goal is confronted by almost insurmountable obstacles because already now there is a scarcity of labor; because factory capacity is fully utilized; because the tasks of last summer exhausted our reserves of foreign currency; and because the financial situation of the Reich is serious and even now shows a deficit. In spite of this, the problem must be solved.

The first task is to safeguard the basic food supply, the second task is to increase armament production, the third, equally important, a substantial increase of exports as a source of foreign exchange.

Organizational measures would have to be taken for the marshaling of manpower, for stockpiling of material, for expansion and exploitation of the producing plant, and finally for finances and foreign exchange.

1. *Marshaling of Manpower*—By establishing a National Card Index [Volkskartei] (General Daluege), a complete survey of all Germans will be created, which shall lead to planning of correct commitment of labor. Material already on hand at the employment offices will be utilized.

Employment offices, Labor Front, industry and the armed forces must cooperate for this task.

It will be the responsibility of the Reich Defense Council to determine the importance of state offices and other organizations from the point of view of national defense. Within the offices economy must be practiced; the enforcement of which is the duty of the Plenipotentiary General for Administration. In fields in which the State has already assumed responsibilities, it would be superfluous for other organizations to also devote themselves to the same questions. Basic simplification of the legal system would have to be accomplished by 15 February; the task of bringing the legal system closer to the people is connected with this at the same time. Substantial savings of manpower could be accomplished in fiscal administration by a radical simplification of tax legislation.

It is doubtful whether the Labor Service did not withdraw too much manpower from the task set. In spite of that he, the Field Marshal, was in favor of retaining it, primarily so as to have reserves for massed commitment in case tasks should suddenly arise.

The Women's Labor is to be expanded.

Measures to remedy the lack of farm laborers.

2. *Material*—The Four Year Plan would have to be retained for our generation. The most important raw materials to be controlled are iron, steel, and cement; their allocation would take place through a Plenipotentiary General.

The great building projects of the Fuehrer would be carried through because of their importance for morale and psychology. For everything else, strictest building restrictions. For this purpose a special agency, to be directly subordinate to the Field Marshal.

Basic changes in automotive matters by the Plenipotentiary General appointed for this purpose. Economy through the most extensive standardization possible. Reorganization of the Reich Railroad System [Reichsbahn]. Determination of the priority of all projects. Special small commission with the Four Year Plan for this purpose. Check of all manufacturing plants for essentiality, check of the working process acceleration of working speed, trade school education, retraining, etc., most intensive promotion of export industries. Decision in each individual case whether the task of rearmament or the promotion of exports is more important.

No more supply of armament to foreign countries against political credits [politische Kredite] but only against payment in foreign currency or, in exceptional cases, by taking into account the political relationship with the particular country, if vital raw materials are supplied.

Absolute prohibition of any destruction of real values, such as occurred in the case of the recent anti-Jewish manifestations or the manifestations against Bishops; expressly approved by the Fuehrer.

Continued expansion of Reichsautobahnen.

3. *Finances*—Very critical situation of the Reich Exchequer. Relief initially through the billion imposed on Jewry and through profits accruing to the Reich in the Aryanization of Jewish enterprises.

Prospect of a "National Thanksgiving Sacrifice" [Dankopfer der Nation] (without commitment to this term) in the form of a single surrender of wealth [Vermoegen], which will represent many times the value of the armament contribution [Wehrbei-

trag] of the prewar era. No details about date and particulars. Its task is to secure armament production, on a large scale. Strict economy measures at all points.

Additional task of the Reich Defense Council—new formulation of all wartime legislation.

Concerning foreign policy the Field Marshal mentioned that it would have to be conducted in such a way that the planned armament program could be carried out.

[Signed] WOERMANN

[To:]

R. M. [Initial] R

Buero St.S.

Pol. I

TRANSLATION OF DOCUMENT NG-3613
PROSECUTION EXHIBIT 107

LETTER FROM DEFENDANT WOERMANN TO VON RIBBENTROP, 23 NOVEMBER 1938, TRANSMITTING VIEWS OF THE GERMAN ARMY HIGH COMMAND ON REORGANIZATION OF THE CZECHOSLOVAK ARMY, THE SECURING OF RIGHT FOR GERMAN MILITARY MOVEMENTS IN PARTS OF CZECHOSLOVAKIA, AND RELATED MATTERS

Berlin, 23 November 1938

Top Secret!

[Handwritten] Original to Reich Minister

3 copies, 3d copy

The High Command of the Armed Forces has, on the request of the Foreign Office, through the enclosed memorandum, stated its views with regard to the problem of the reorganization of the Czech Army; these views have not yet been submitted to the Fuehrer by the Chief of the High Command of the Armed Forces.

[Initial] W [Woermann].

General Keitel, told me orally he did not think that these wishes should be submitted to Minister Chvalkovsky in this form. He thought it might be practicable to ask the Czech Foreign Minister how he imagined the military relations should be and then, if the case arose, to reject his proposals until something useful would result.

9887640—51——55

The framework for the military provisions—without details—is being created by the draft treaty prepared by Ministerial Director Gaus.*

Herewith submitted to Reich Minister

(Signed) WOERMANN

Top Secret!

Copy — Berlin, 21 November 1938

High Command of the Wehrmacht — 3 copies, 1st copy

Nr. 1310/38 mil.sec.Ausl.III 1

To the Foreign Office, via VAA

Subject: The Czech Army

The High Command of the Armed Forces asks that with regard to the reorganization of the Czech Army the following claims should be made. The Chief of the High Command has approved of them but has not yet been able to submit them to the Fuehrer:

1. No fortifications or blockings at the German-Czech frontier and no preparations for them.

2. Czech midget army [kleinste tschechische Wehrmacht], which would have to seek support in Germany and would have to sever connections with other nations (German military mission).

Proposals concerning strength, organization, and armament would have to be submitted to the German Government by Czechoslovakia.

3. Coordination of the types of arms and munitions manufactured in the Czech armaments industry with German types and preparations for the exploitation of the armaments industry for Germany.

4. No intelligence service against Germany: Intelligence activities of third powers on Czech soil against Germany not to be tolerated.

5. Germany's right to move troops through Czech territory in war or peacetime, between Silesia and Austria on rail or road, after previous notification.

6. Special regulations concerning the conscription of the German minority in the rest of Czechoslovakia.

7. The roads leading through Czechoslovakia from Dresden, Glatz, or Ratibor to the Ostmark [Austria] will have to be such

* Ministerialdirektor Dr. Gaus, Chief of the Legal Department of the Foreign Ministry.

as to allow of this full utilization for military movements, also in wartime.

The Chief of the High Command of the Armed Forces

BY ORDER:

Signed: BUERKNER

TRANSLATION OF WOERMANN DOCUMENT 116 WOERMANN DEFENSE EXHIBIT 46

DRAFT OF THE GERMAN FOREIGN OFFICE OF A PROPOSED ENTENTE CORDIALE BETWEEN GERMANY AND CZECHOSLOVAKIA, UNDATED*

Draft of an Entente Cordiale between Germany and Czechoslovakia

The German Reich Chancellor
and
The President of the Czech Republic,

Guided by the desire to place relations between the German Reich and the Czechoslovak Republic on a new permanent basis after the Sudeten-German question has been settled and to establish relations of friendship on this basis,

recognizing that in view of her geographical situation the interests of the Czechoslovak Republic are most closely connected with the German Reich and that it is therefore advisable for Czechoslovakia to look to Germany for political and economic support,

convinced that such support will guarantee the security of the Czechoslovak State and considerably contribute to the stabilization of the political situation in Central Europe,

have agreed to lay down the aims stated above in a treaty and to that end have appointed delegates.

The German Reich Chancellor:

The President of the Czechoslovak Republic:

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who after exchange of their powers of attorney, found to be in correct and proper form, agreed on the following regulations:

* This draft was discussed in a memorandum by defendant Woermann dated 25 November 1938. See the following document.

Article 1

The German Reich guarantees the invulnerability and inviolability of the territory of the Czechoslovak State and, should this invulnerability and inviolability be endangered by third powers, will render assistance to the Czechoslovak Republic.

Article 2

The Czechoslovak Government will maintain contact with and obtain the agreement of the German Reich in all questions of the foreign policy of its country.

The Czechoslovak Government regards treaties of alliance and assistance formerly concluded between Czechoslovakia and third powers as obsolete and thus as superfluous in view of political developments which have arisen since and will not conclude such treaties with third powers in future.

Article 3

In view of the fact that the German Reich, in Article 1 of this agreement, has entered into an obligation to safeguard and to assist, the Czechoslovak Government will adapt the future organization of its armaments to the military interests of Germany. Details on this adaptation will be left to an agreement between the two military commands.

Article 4

The two governments will immediately enter into negotiations in order to regulate future economic relations between Germany and Czechoslovakia for the duration of this agreement, according to the intention and purpose of the agreement.

Article 5

This agreement is to be ratified as soon as possible. It becomes valid on the day the ratification documents are exchanged and remains in force for 10 years hereafter. Unless notice is given by one of the contracting parties one year before the date of expiration, its validity will be prolonged for another five years and so on for the following periods.

Original made out in duplicate in the German and Czechoslovak languages.

Berlin, ----------

TRANSLATION OF DOCUMENT NG–2993
PROSECUTION EXHIBIT 108

DEFENDANT WOERMANN'S NOTES FOR A CONFERENCE WITH THE CZECHOSLOVAK FOREIGN MINISTER CHVALKOVSKY, 25 NOVEMBER 1938

Secret!

Notes for the Conferences with the Czechoslovak Foreign Minister Chvalkovsky

Attached is submitted the draft of Ministerialdirektor Gaus concerning a treaty of friendship between Germany and Czechoslovakia.[1] The individual questions to be discussed with Foreign Minister Chvalkovsky are taken point by point in the following in the sequence of this rough draft.

1. Question of the Guarantee (section 1 of the draft)

The guarantee question has its source in number 6 of the Anglo-French proposals to Czechoslovakia dated 19 September 1938. According to these, the English Government declares itself willing to be a party to an international guarantee of the new border of Czechoslovakia against unprovoked attacks. One of the main conditions of such a guarantee would be the maintenance of Czechoslovakia's independence, whereby the existing treaties, which contain bi-lateral obligations of a military character, are replaced by a general guarantee against unprovoked attacks.

In this document France had not undertaken any obligation of this kind, probably because of the treaties still existing between France and Czechoslovakia.

In appendix I to the Munich Agreement dated 29 September 1938[2] the British and French governments have joined the Munich Agreement on the basis that they stand by the offer contained in number 6 of the Anglo-French proposals dated 19 September 1938.

In the English House of Commons, Inskip, Stanhope, and Chamberlain explained this Munich Declaration to the effect that—

a. Legally no guarantee existed at the time, that this would have to be established rather in a formal guarantee treaty; there existed, however, a moral guarantee.

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[1] The Gaus draft is reproduced immediately above (Doc. Woermann 116, Woermann Def. Ex. 46).

[2] Weizsaecker Document 25, Weizsaecker Defense Exhibit 69, reproduced earlier in this section.

b. That it could only be decided later who is to take part in the guarantee and what its exact contents will be; and

c. That the guarantee only has bearing on the case of an unprovoked attack against the territory of the Czechoslovak State, not, however, a "crystallization of the borders" and not on an internal discussion of what constitutes Czech and Slovak territory.

In the Munich Agreement, appendix I, it is stated that Germany and Italy on their side would give a guarantee as soon as the question of the Polish and Hungarian minorities in Czechoslovakia was settled. The Czechoslovak Government is of the opinion that this is now the case and has sent corresponding notification to the German, Italian, French, and English Governments.

The goal to be reached would be that Czechoslovakia on her side should inform France and England that she renounces a guarantee by these states.

The Fuehrer has already stated in the conference with Chvalkovsky dated 14 October 1938 that a satisfactory relationship between Germany and Czechoslovakia could be developed if the latter understood her role and became aware of the fact that English and French guarantees are just as worthless as the treaty of alliance with France or the pact with Russia were in the course of the crisis and that the only effective guarantee is that of Germany.

Section 2 of the agreement draft, which will be gone into fully here under number 2, contains, moreover, the obligation of Czechoslovakia not to conclude such treaties with third powers.

There would then remain the question of the Italian guarantee concerning which Italy ought to be spoken to before the negotiations with Czechoslovakia. Shall things stop with the Italian guarantee or is an exclusively German guarantee to be given?

2. Foreign Policy of Czechoslovakia (section 2 of the draft)

In the draft it is provided in paragraph 1 of section 2 that Czechoslovakia shall behave in all questions of the foreign policy of her country in touch and agreement with the German Government.

It is to be tested how far individual questions of foreign policy are to be discussed at the present conversation with Chvalkovsky.

The following, among others, come into consideration:

a. The withdrawal of Czechoslovakia from the League of Nations.

b. The accession of Czechoslovakia to the Anti-Comintern Pact (which requires Italian and Japanese assent); probably premature at present.

c. The recognition of Franco by Czechoslovakia. Franco has asked for our intervention for this purpose.

Section 2, paragraph 2, considers that Czechoslovakia's previous treaties of alliance and support are objectless and contain the obligation not to conclude treaties of this kind in future with third powers. This question stands in the closest connection with the guarantee question since, as shown above, Czechoslovakia's hitherto existing treaties of the kind according to English-French interpretation, are to be replaced by an international guarantee. So far as the treaties of the Little Entente are concerned, the Rumanian Minister for Foreign Affairs has taken the point of view, according to information from Italy, that the guarantee powers would have to decide how far Czechoslovakia can still have political treaties in future.

3. Military Questions (section 3 of the draft)

The draft implies a skeleton agreement. Czechoslovakia's obligation should be to adapt her military defensive power to the military interests of Germany. This obligation is made palatable by representing it as a consequence of the German guarantee. Acceptance by Czechoslovakia would be facilitated, perhaps, if the wording was not to the effect that Czechoslovakia is to adapt her defensive power to the military interests of Germany but "to their mutual interests." This would be exclusively a question of precise wording.

According to the draft the details are to be agreed upon by the military headquarters. Of course the military headquarters have not to make decisions about them alone. The final decision even concerning military matters is much more a political one. But this does not need to be stated in the agreement. The words "between the military headquarters on both sides" could also be erased, however.

For the conferences with Chvalkovsky the Chief of the High Command of the Armed Forces recommends that we do not come to Czechoslovakia with definite demands but petition Chvalkovsky on his side for proposals, which would be declined until they corresponded to our wishes.

Chvalkovsky has already explained in answer to a question of the Reich Minister on 13 October, that Czechoslovakia was of course not planning any new line of fortifications against Germany and that, merely for financial reasons, Czechoslovakia only wishes to have quite a small army. This, however, could be added to.

It will have to be proved how far the political leaders will adopt the suggestions of the High Command which have already been submitted but not up to now approved by the Fuehrer.

4. Economic Stipulations (section 4 of the draft)

The draft contains merely a skeleton stipulation, according to which both the governments are to enter upon negotiations at once in order to regulate the future economic relationship for the period of the treaty in harmony with its meaning and purpose.

Details could probably scarcely be discussed with Chvalkovsky at the present stage. If the latter came out on his side with the suggestion of a currency and customs union, this would be the best procedure. Otherwise he could be given to understand that our intentions are aimed in this direction.

5. Questions of Domestic Politics

It has already been pointed out in the earlier conferences of the Fuehrer and of the Reich Minister for Foreign Affairs with Chvalkovsky that Czechoslovakia must give up her press and propaganda policy. In an earlier discussion with the Reich Foreign Minister, Chvalkovsky already signified that of course the activity of the Germans from the Reich in the framework of the NSDAP would encounter no difficulties.

A prohibition of the Communist Party, as has already been pronounced in Slovakia, must be secured without its being laid down in the treaty.

For the rest, an extensive assimilation to the internal German structure will have to be consummated by Czechoslovakia itself, if she concludes a currency and customs union. Such a union would probably not be conceivable unless the liberal economic policy of Czechoslovakia ceased and unless the standard regulations for German economic management (including the regulations concerning Jews) had acceptance also in Czechoslovakia.

Beyond this an assimilation of the internal political structure of Czechoslovakia, especially with regard to the question of the Jews, Freemasons, etc., is to be desired. This could be pointed out to Chvalkovsky without laying direct injunctions upon him at the present stage.

Obligations of the kind dealing with domestic politics cannot of course be imposed upon Czechoslovakia in a treaty destined for publication.

Memorandum follows.

[To:]
Reich Minister
Director Legal Department
Deputy Chief Political Department
Pol. IVb

Berlin, 25 November 1938
(Signed) WOERMANN

PARTIAL TRANSLATION OF DOCUMENT 2943-PS PROSECUTION EXHIBIT C-328

LETTER FROM COULONDRE, FRENCH AMBASSADOR TO BERLIN, TO THE FRENCH MINISTER FOR FOREIGN AFFAIRS, 22 DECEMBER 1938*

M. Coulondre, French Ambassador in Berlin
To M. Georges Bonnet, Minister for Foreign Affairs

Berlin, 22 December 1938

The visit I paid yesterday morning to Herr von Weizsaecker on his return from leave afforded me the opportunity to discuss with the State Secretary various political matters of a general character.

Baron von Weizsaecker is an extremely courteous, but also, as it seemed to me, a very cautious man, proceeding with the utmost care whenever he ventures off the beaten track.

Stressing the importance of Anglo-German relations for the promotion of a European détente, as well as for the building up of Franco-German cooperation, I asked the State Secretary how he explained the tension now prevailing between England and Germany. Was it merely a matter of the press, as Dr. Goebbels has told me?

"Dr. Goebbels," he answered, "is thinking as an expert when he gives this explanation. As a matter of fact, it is largely true. There is, in my opinion, no serious cause of misunderstanding between the two countries. It is a question of methods rather than of fundamental differences."

With regard to the international guarantee envisaged in favor of Czechoslovakia, Baron von Weizsaecker was reticent. When I reminded him that in Paris Herr von Ribbentrop had expressed his intention of reexamining the question and asked whether there

* This was taken from page 46 of an English version of "The French Yellow Book, Diplomatic Documents, 1938-39," published by authority of the French Government (Reynal & Hitchcock, New York, 1940).

were any new developments, he answered in the negative. "Could not this matter," he asked with a smile, "be forgotten? Since Germany's predominance in that area is a fact, would not the guarantee of the Reich be sufficient?" I did not fail to remark that obligations entered into cannot be forgotten, and placed the matter in its true light. But I received the impression that my interlocutor had already made up his mind.

"Besides," he concluded, "it would be for Czechoslovakia to claim that guarantee. In any case, we are in no hurry to settle this question, and M. Chvalkovsky is not coming to Berlin until after the holidays." Actually, the visit of the Czechoslovak Foreign Minister has already been postponed twice.

As my conversation with the State Secretary was no more than an exchange of personal views in the course of a courtesy visit, I think that it would not be suitable to take official cognizance of it. Nevertheless, I thought it my duty to report his pronouncement on the last question to Your Excellency, as it seems to me to confirm the misgivings felt in Prague concerning the conditions that the Reich might intend to attach to the granting of its guarantee.

COULONDRE

PARTIAL TRANSLATION OF DOCUMENT NG–2897
PROSECUTION EXHIBIT 111

EXTRACTS FROM A REPORT FROM THE GERMAN LEGATION IN PRAGUE TO THE GERMAN FOREIGN OFFICE, 28 DECEMBER 1938, DEALING WITH CZECHOSLOVAKIA'S POSITION GENERALLY, THE ATTITUDE OF THE NEW GOVERNMENT, AND RELATED MATTERS

Copy Political Division IV 9615

German Legation — Prague, 28 December 1938

A. III. 2 general — [Handwritten] To the files

[Illegible initials]

Political Report

Contents: The political situation in Czechoslovakia at the end of 1938

[Initials] E W B [Bohle] 14 January

Foreign Policy

The external political result of the year 1938—a fateful one for Czechoslovakia, can be briefly summarized in such a way that the state has lost its significance as an independent factor in international politics.

According to present day power-politics and geographical conditions, in matters of importance Czechoslovakia only retains a formal independence, and even this she can only preserve on condition that the Prague Government and Czech people—the Slovak [people] shall not be mentioned in this connection—form a relationship with the Reich in accordance with our wishes. The present Czechoslovak Government is under no illusions regarding the real situation. It knows that there can only be one foreign policy for their country—that of the closest reliance on the Reich. According to my conviction, the government is therefore heartily prepared to meet the demands made by Berlin for a final settlement of mutual relations, in order to maintain the outward sovereignty of their state. Under these conditions, the final result which we desire will not be changed by difficulties which may possibly arise during negotiations. Serious resistance could then only be encountered, with respect to public feeling, if Germany should make manifest new territorial claims.

[Marginal notes, handwritten] (1) It is highly probable that Chvalkovsky will come to Berlin between the return journey of Count Czaky and Dr. [Illegible], Herr von Ribbentrop's departure to Warsaw. (2) He is to be received by the Reich Foreign Minister and perhaps also by the Fuehrer. He is to be handed a list of German complaints. (3) Submitted for Gauleiter's information.* [Initial] Fr. [Fischer] 14 January.

In order to create a favorable atmosphere for negotiations, the present Czechoslovak Government is endeavoring to convince the Reich of its loyalty. Through the repeated statements by the President of the Republic, Minister President Beran, and the Foreign Minister, the Government has determined to follow the course laid down by Germany. By means of a considerable change in the press policy, they are endeavoring to convince the people that there is no way for this state to continue in existence other than to fall into step with the German Reich and thereby make a decisive break with the past.

In all practical questions which were discussed, the Czechoslovak Government conformed to Germany's wishes and publicized reasons for its conduct in a manner psychologically not unaccomplished. In the eyes of the Czechoslovak Government the proof of their good will is represented by their conduct with regard to the question of Autobahnen, their attitude towards the German orders for armament deliveries, and the agreements in the sphere of economy and cultural-political matters. Certain domestic political measures—even if in the main perhaps all too timid and opportunistic, for example, the tackling of the Jewish problem, the prohibition of the Communist Party, the authorization of the NSDAP, the setting-up of rights of the German racial groups,

* The reference is to the defendant Gauleiter Bohle.

etc., are intended to give the Reich the assurance that from an ideological point of view, too, they are severing themselves from old ideas.

It is difficult to perceive how far merely realistic political considerations [realpolitische Erwaegungen] or an inner attitude based upon genuine conviction determine the new course of the Prague government. The mental reservations peculiar to the Czech national character, added to a spark of hope that sooner or later changes will take place, will still have to be taken into consideration even in the case of individual members of the government. While I believe that the President of the Republic and the Foreign Minister as well as a few others belonging to the cabinet have drawn a line under the past in accordance with their own sentiments and wish unreservedly for closer relations with the Reich, it appears to me that, for example, the same inner attitude in the case of Minister President Beran is not so certain. This does not mean to say that at present he is not an honest follower of the policy pursued by his government. However, as a type of the old party politician he may be more easily subject to opportunist leanings. Therefore it appears that if not exactly mistrusted, Herr Beran is treated with a certain measure of caution.

* * * * * * *

As far as the forming of relations with other states is concerned, the Czechoslovak Government appears to be endeavoring to avoid everything which might arouse Germany's distrust. Naturally, relations are bad with the neighboring states, Poland and Hungary. There is a great deal of bitterness on the part of the government and the people, and even in Slovakia too, over the way in which these two countries exploited the distressed condition of Czechoslovakia at a time when she was prostrate, without incurring any risk or sacrifice on their part. The ruthless treatment of the Czechs and Slovaks in the territories transferred to Poland and Hungary contributes its part towards making the relations with Budapest and Warsaw even worse.

On the other hand, the Polish Government is making efforts to be on better terms with Czechoslovakia again. Various visits to Prague from Polish politicians are obviously for this purpose.

* * * * * * *

The former allies, France and Russia, have become uninteresting [uninteressant] with regard to foreign policy. Apart from this, stressing good relations with the Soviet Union is held to be dangerous in view of the German attitude and therefore does not appear in any form. On the contrary, the prohibition of the Com-

munist Party and the anti-Jewish measures, as well as the intention to recognize the Franco regime, emphasize the fact that the indignation of the Moscow government is no longer regarded as constituting a practical danger. During the decisive crisis in the nation, the French showed that they are in no position to help Czechoslovakia.

Therefore the only significance they retain here now is that of a not very important economic partner and as a possible financial backer. Efforts undertaken by the French to obtain the renewed political confidence of Czechoslovakia have obviously not been favorably received in Prague.

Relations with England are cool. Although, according to the opinion of the Prague government, Great Britain will neither help nor harm their country, it is not wished to sever relations with London completely.

* * * * * * *

Domestic Policy

The case of the Czechoslovak internal policy consists on one hand in the Czech relations with the Slovakians and the Carpatho-Ukrainians, and on the other hand in the newly established national unity policy.

While the relations between the Carpatho-Ukrainian government and the Prague central offices have undoubtedly improved during the past weeks, not the least reason being that the government in Khust had to acknowledge that at present they were unable to forego the support from Prague, the relations between the Czechs and the Slovaks still remain strained. Recently the tension between the governments in Prague and Bratislava has recently become so great that the very existence of the Republic appeared to be jeopardized. The Slovaks desire to be the "masters in their own house" led not only to countless dismissals of Czech officials in Slovakia but also to personal and economic discriminations against the Czechs.

* * * * * * *

If Beran's position is consequently to be regarded as not fully consolidated, the new President of the Republic has on the contrary very soon found a way to win a high measure of regard from the entire nation. The conduct which he has shown so far is generally acclaimed. If Beran fails, perhaps Dr. Hacha's authority will succeed in giving the Czech people—on the whole loyal to the state and discipline—the leadership designed to meet

the realities of their political situation abroad and in the same way to accommodate the necessities of their internal politics.

Signed: HENCKE[1]

To the Foreign Office, Berlin

TRANSLATION OF DOCUMENT NG-3129
PROSECUTION EXHIBIT 113

TWO REPORTS OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN AND OTHERS IN THE FOREIGN OFFICE, 28 AND 30 DECEMBER 1938, CONCERNING HIS STATEMENTS TO REPRESENTATIVES OF FRANCE, ITALY AND HUNGARY THAT THE FUTURE OF CZECHOSLOVAKIA DEPENDED ENTIRELY UPON GERMANY

1. Report of 28 December 1938 concerning discussion with the Italian Chargé d'Affaires

Berlin, 28 December 1938

[Handwritten] Pol IV 3073 secret.

The Italian Chargé d'Affaires today referred again to the issue involving the guarantee of the integrity of Czechoslovakia. He was instructed by Count Ciano to inform us that the Italian Government desired to coordinate their treatment of this question with the intentions of the Reich (*procéder d'accord avec le gouvernement du Reich*).[2] Minister Chvalkovsky had disclosed his intention in Rome of paying a visit there at the beginning of 1939. Ciano replied to him that this had been agreed to in Rome but that it would be February. With reference to Magistrati's question as to when Chvalkovsky would come to Berlin, I left the matter open. I believed that this would scarcely be the case before the date fixed for the diplomatic reception.

Moreover I avoided giving added meaning to the phrase used by Magistrati: "*procéder d'accord* * * *." Instead, I told Magistrati that recently I had stated to the French Ambassador without beating about the bush that the future of Czechoslovakia depended entirely upon Germany. A guarantee from any other power would be valueless. Czechoslovakia now was different from the time to which the guarantee refers. I also thought that Ambassador Attolico had already been directly informed by the Reich Minister of Foreign Affairs about our views on the subject of a guarantee.

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[1] Hencke was Legation Counsellor (Gesandschaftsrat) in the German Legation in Prague.
[2] "Proceed in accord with the Reich Government."

Magistrati knew about that conversation and thought it had been of a somewhat vague nature but he dropped the subject.

Signed: WEIZSAECKER

To the Reich Minister
Under State Secretary
Deputy Chief Political [Initial] B [Bismarck]
Chief, Legal
Pol. IV/V [Political Division IV and V]

2. Report of 30 December 1938 concerning discussion with the Hungarian Chargé d'Affaires

[Stamp] Berlin, 30 December 1938
Foreign Office
Pol IV 2 Secret
Entered 1 January 1939

Today the Hungarian Chargé d'Affaires broached the same subject as the Italian Chargé d'Affaires had done few days ago, the question of a guarantee for Czechoslovakia.

I told Mr. Chyozy, as I had explained to the French Ambassador, namely that: the integrity and future of Czechoslovakia as a whole were in Germany's hands. A guarantee by any other power was therefore of no consequence. I could not tell him yet what the position was with regard to a German guarantee to Czechoslovakia. The intended visit of Minister Chvalkovsky had not yet been fixed. But at any rate I did not believe that it would be before the middle of January.

Signed: WEIZSAECKER

To the—
Reich Minister.
Under State Secretary.
Deputy Chief Political.
Director Legal.
Minister Aschmann.

[Handwritten] Very urgent.
[Illegible handwriting]

PARTIAL TRANSLATION OF DOCUMENT NG-5357
PROSECUTION EXHIBIT 3522

REPORT AND TELEGRAM BY DEFENDANT VON WEIZSAECKER, 22 AND 23 FEBRUARY 1939, CONCERNING THE GUARANTEE OF CZECHOSLOVAKIA'S INDEPENDENCE AND CZECHOSLOVAK MEMORANDUM ON THIS SUBJECT

1. Report from Defendant von Weizsaecker to von Ribbentrop, the Defendant Woermann and others, 22 February 1939, commenting upon a note handed him by the Czechoslovak Chargé d'Affaires dealing with the Guarantee of Czechoslovakia's Independence

Berlin, 22 February 1939

State Secretary No. 161

The Czechoslovak Chargé d'Affaires, Ladislav Szathmary, wished to speak to me urgently today, as he had a commission from his government in hand which was to be carried out immediately.

The Chargé d'Affaires gave me the note contained in enclosure 1, in which the question of the guarantee of the rest of Czechoslovakia is raised and connected a solemn pledge of neutrality and nonintervention on the part of Czechoslovakia.

The Chargé d'Affaires added verbally that his government would be obliged if it might be informed as soon as possible as to the point of view of the German Government.

Quite privately—as Szathmary expressed it—he added that a note couched in the same words, in French language, would be handed over this morning, or had already been handed over as a memorandum (see enclosure 2)* in Rome, London, and Paris. In order, however, that the German Government should be the first to know of the step taken by the Czechoslovak Government with the Munich Powers, he had made his visit such an urgent one.

I answered Szathmary briefly the following: Whether the step taken by the Czechoslovak Government was taken here in Berlin half an hour earlier or later, did not seem to me to be relevant. It struck me, however, that the Czechoslovak Government applied simultaneously to all the four Munich Powers in such a question, without first entering into discussions with us alone. Apart from that I entirely reserved the answer of the Reich government regarding the Czechoslovak step.

Signed: WEIZSAECKER

* Enclosure 2 was not found with the original document.

[To:]

Reich Foreign Minister

Under State Secretary [the defendant Woermann]

Deputy Chief Political Division [Handwritten] Tsch

Director Legal Division

Minister Aschmann

2. Czechoslovak Memorandum, 22 February 1939, Concerning the International Guarantee

Copy Enclosure 1

Legation of the Czechoslovak Republic

Berlin, 22 February 1939

MEMORANDUM

In the first supplementary protocol of the Munich Pact of 29 September 1938* His Majesty's Government in the United Kingdom and the French Government have declared that they will stand by the offer in section 6 of the Franco-British proposals of 19 September 1938 concerning an international guarantee of the new frontiers of the Czechoslovak State against any unprovoked aggression. The German Reich and Italy have declared that they too will give their guarantee, as soon as the question of the Polish and Hungarian minorities in Czechoslovakia is settled.

In section 6 of the Franco-British proposals of 19 September 1938, the provision was made that one of the main conditions for such a guarantee would be to safeguard the independence of the Czechoslovak state by the setting-up of a general guarantee against any unprovoked aggression in lieu of the agreements at present in force, which contain mutual obligations of a military nature.

With a view to facilitating the realization of this guarantee for the signatory powers of the Munich Pact, Czechoslovakia would be prepared to give a solemn declaration on her new international position, including, in particular, a pledge of strict neutrality and absolute nonintervention in all disputes of third powers which might occur.

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* Weizsaecker Document 25, Weizsaecker Defense Exhibit 69, reproduced earlier in this section.

933764O—51——56

3. Coded Telegram from the defendant von Weizsaecker to six Embassies or Legations, 23 February 1939, Concerning Czechoslovakia's Request for a Guarantee

Copy

Berlin, 23 February 1939 to Pol IV 1150

To—

1. German Embassy	London	No. 36
2. German Embassy	Paris	No. 60
3. German Embassy	Rome	No. 73
4. German Legation	Prague	No. 46
5. German Legation	Warsaw	No. 19
6. German Legation	Budapest	No. 27

Telegram in code (Secret code procedure)

For confidential information only.

The Czechoslovak Chargé d'Affaires yesterday handed a note to the Foreign Office by order of his government, in which the question of a guarantee for Czechoslovakia was broached in connection with the supplementary protocol of the Munich Pact. In order to facilitate the realization of this guarantee, the Czechoslovak Government declares its readiness to give a solemn declaration concerning its new international position, containing in particular its pledge of strict neutrality and absolute nonintervention in all disputes of third powers which might occur.

The Chargé d'Affaires added verbally and unofficially that a note in the same tenor had been delivered in Rome, London, and Paris.

I replied to the Chargé d'Affaires that it struck me that the Czechoslovak Government applied simultaneously to all the four Munich Powers on a question of that kind, without first entering into discussion with us alone. Apart from that I entirely reserved the answer of the Reich Government regarding this step.

Signed: WEIZSAECKER

TRANSLATION OF DOCUMENT NG-5358
PROSECUTION EXHIBIT 3523

DRAFT OF A PROPOSED NOTE VERBALE* FROM THE FOREIGN OFFICE TO THE BRITISH EMBASSY WITH A HANDWRITTEN ADDITION BY THE DEFENDANT WEIZSAECKER, FEBRUARY 1939, CONCERNING THE BRITISH PROPOSAL OF A GUARANTEE TO CZECHOSLOVAKIA, TOGETHER WITH REVISION THEREOF

(Second Draft [Fassung])

Berlin, February 1939 — 812

To H.M. British Embassy — to Pol. IV 819

2 Versions [Angaben]

Version I

Note Verbale

According to the note verbale of H.M. British Embassy of 8 February 1939—No. 54 (27/9/39)—H.M. British Government is of the opinion that the moment has now come to settle the question of a guarantee in favor of the Czechoslovak state, as provided for in the appendix of the Munich Pact of 29 September 1939. With reference to the statements made by the Head of the Italian Government and the Italian Minister for Foreign Affairs in January of this year to the British Prime Minister and the British Foreign Secretary, H.M. British Government expressed the wish to be informed of the German Government's opinion in this matter. The Foreign Office has the honor of making the following reply to H.M. British Embassy.

With regard to the question of a guarantee in favor of Czechoslovakia, the German Government, like the Italian Government, has already expressed, by the wording of its statement in the appendix to the Munich Pact, that it was not in accord with its views to make this question the object of a general settlement together with the other signatory powers of the Pact. It may be recalled that when the Czech question more and more came to a head in the summer of last year, the German Government was continually obliged to point out most energetically that the critical situation at that time was caused not least by the hope of the Czechoslovak Government that it could rely in any case on the

* "A *note verbale*—a communication that takes the place of a regular signed note and has the same value as a signed note. It is more formal than an aide-mémoire and usually sums up matters which are to be discussed. Not signed but initialed by the responsible officer." Style Manual of the Department of State, "Third-person diplomatic communications" page 3, Government Printing Office 1937. In German, a *note verbale* (Verbalnote) has been defined as "a diplomatic note of a government to its diplomatic representative for verbal transmission." Schwabachers Fremdwoerterlexikon, page 261, by Dr. M. Fuchs. (Schwabachersche Verlagsbuchhandlung m.b.H., 1932).

support of both Western Powers in its anti-German policy. In view of the situation as it has developed after the conclusion of the Munich Pact, the German Government cannot help being apprehensive lest a common, international guarantee of the Czechoslovak state should, in the future too, lead to similar dangerous consequences. In actual fact, a guarantee undertaken in common with the Western Powers would, legally and politically, create a situation, which would not be in accordance with the existing, natural interests.

As to the question of an eventual guarantee to be given by Germany alone, the prerequisites for a reply are, in the opinion of the German Government, not yet given at this time. The German Government believes, on the contrary, that in this respect it is necessary to wait first for a clarification of the inner-political conditions in Czechoslovakia.

Berlin, February 1939
(date as above)

(i.R.o.U.) [in final copy without signature]

[Handwritten comments by Weizsaecker]
The geographical situation of Czechoslovakia, the political events of last autumn, in which the entanglement of the country in far-reaching international political agreements have played a part, are increasing the crisis. Also the development of events in Czechoslovakia since the conclusion of the Munich Pact, makes it seem questionable whether a collective guarantee of the Czechoslovak state is really corresponding to existing natural interests.

Revised Note Verbale from the Foreign Office to the British Embassy, 28 February 1939, Concerning the British Proposal for a Guarantee to Czechoslovakia

Carbon Copy
Foreign Office [Initial] HE [HEWEL]
Pol. IV 812 and 819

Note Verbale

According to the note verbale of H. M. British Embassy of 8 February 1939—No. 54 (27/9/39)—H. M. British Government is of the opinion that the moment has now come to settle the question of a guarantee in favor of the Czechoslovak State, as provided for in the appendix of the Munich Pact of 29 September 1939. With reference to the statements made by the Head of the Italian Government and the Italian Minister for Foreign Affairs in January of this year to the British Prime Minister and the British Foreign Secretary, H. M. British Government expressed the wish to be

informed of the German Government's opinion in this matter. The Foreign Office has the honor of making the following reply to H. M. British Embassy.

Already during the discussions which took place at the Munich Conference, the German Government made it quite clear, in reply to the suggestions brought to its attention, that it could undertake to give a guarantee to the Czechoslovak State *only if* the other *neighboring countries* of Czechoslovakia were willing to assume a same obligation. However slight the differences between a guaranteed Czechoslovakia and the German Reich itself might be, the greater the disputes might become between this country and its other neighbors. *The entry of England and France* into such an obligatory guarantee in favor of Czechoslovakia seems, in the opinion of the German Government, to offer no security against the beginning or the aggravation of such disputes and the conflicts which might possibly arise as a result from it. Moreover, on the basis of the experience in the past, the German Reich Government fears that a declaration of guarantee in favor of Czechoslovakia on the part of the Western Powers would rather *intensify* the disputes between this country and the surrounding states. H. M. British Government will not be unaware that, for example, *between Hungary and Poland* on one side and Czechoslovakia on the other, differences of conception *exist* as to whether the *present frontier is right.* The Reich Government and the Italian Government undertook to establish this frontier in the hope of finding—in an attempt which they considered successful —a *middle line* which might meet with the approval of all parties. Meanwhile actual facts have shown since then that in this territory, which is ethnically so contested—which, therefore, cannot be compared at all to western conditions—*a solution which would be satisfactory to all* can only be found with *great difficulty.* The British Government will perhaps be the first to realize how problematic attempts of this kind can be, however well-meant, from its own attempted proposals for a solution of the *Palestine question.* The *principal cause* for the critical development of this problem seems, however, without a doubt, to lie in the fact that in past years the various Czech Governments, as a result of the *military guarantees* given to them by the Western Powers, more or less seriously meant, believed that they could simply bypass the inevitable demands of the ethnic minorities. Out of that resulted those inner tensions which finally forced the solution of 1938.

Since it cannot be contested that even today, within Czechoslovakia itself, the forces which are responsible for the development of that time—even if against the present government—are

at work, there still exists even now the undeniable *danger* that prematurely given guarantees would not only fail to lead to any reasonable solution of the internal political problems of Czechoslovakia but would rather contribute to an intensification of the disputes and thereby to the bringing about of *new conflicts*. The German Government at that time, thinking it would be able to pacify this region in which it is of necessity the most interested, made, in collaboration with the *Italian Government*, these decisions by arbitration, which—as it has since become convinced—have met with *very little approval* from the parties concerned. It is, therefore, in no position to contribute unnecessarily to further criticism of its measures, by further premature intervention, in countries with which it desires otherwise to remain in peaceful and friendly relations. As already observed, it considers an extension of this pledge of guarantee to the Western Powers, not as a factor contributing to the pacification of the internal passions of the regions concerned but rather an element for the strengthening of unreasonable tendencies, as was the case in the past. The German Government is aware that, in the last analysis, the final development in this European area will come first and foremost within the sphere of the most vital interests of the German Reich, not only from the historical point of view but also from the geographical and, above all, the economic viewpoint.

The German Government believes, therefore, that it is necessary first of all, to wait for a clarification of the internal political development in Czechoslovakia and the resulting improvement of the relations of that country with the neighboring states, before it can be time for a further statement of the German Government's position.

Berlin, 28 February 1939

TRANSLATION OF DOCUMENT NG–5302
PROSECUTION EXHIBIT 3524

REPORT OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN AND OTHERS, 3 MARCH 1939, CONCERNING HIS DISCUSSION WITH CZECHOSLOVAK MINISTER MASTNY ON VARIOUS DIPLOMATIC NOTES CONCERNING A GUARANTEE OF CZECHOSLOVAKIA'S INDEPENDENCE AND RELATED MATTERS

State Secretary No. 196 Berlin, 3 March 1939

The Czechoslovak Minister [Gesandte] saw me today at my request. I first of all acquainted him briefly with the British and French notes of 8 February concerning the guarantee of Czechoslovakia and mentioned Mussolini's view, referred to in the notes. Mastny stated that he had heard indirectly of the French note, while alleging to know nothing of the British note. I then went on to explain the basic contents of the German reply to the British and French Embassies here, of 28 February.[1] Finally, I told the Minister that the German view with regard to the Czechoslovak memorandum of 22 February[2] in the same matter could be seen from our replies to Paris and London of 28 February.

Mastny, who was visibly nervous during the whole conversation, seemed to resign himself to this indirect and verbal form of dealing with the Czechoslovak memorandum of 22 February and stated that he believed to be in a position to assure us that the Czechoslovak Government would abstain from any further steps in the guarantee question without first contacting us. As to our replies to Paris and London, Mastny made the following observations: He was not aware that the Munich Conference had mentioned a guarantee by the other neighboring states of Czechoslovakia. I replied to Mastny that he had to take that as a fact. The Minister then stated that we evidently took the view that the situation had not sufficiently matured for a guarantee. In this respect, he begged to be of different opinion. A guarantee given today would not be a premature promise but would, on the contrary, bring to an end the present state of uncertainty and give the Prague Government a better chance to deal with those elements in its country who disliked cooperation with Germany. By the way, these elements were without real influence and not to be taken seriously. Without discussing this objection, I replied to Mastny that our information prompted us to take the opposite view; we just wanted to avoid backing up the disturbing elements by a premature guarantee.

[1] See Document NG–5358, Prosecution Exhibit 3523, reproduced earlier in this section.
[2] *Ibid.*

Mastny at last tried to bring to me Chvalkovsky's messenger [Sendboten], the Czechoslovak Minister [Gesandter] Masarik,[1] who happened to be in the Foreign Office building. Knowing what Masarik had on his mind, I turned aside this suggestion.

Signed: WEIZSAECKER

[To:]
Reich Foreign Minister
Under State Secretary [the defendant Woermann]
Deputy Chief Political Division
Chief Legal Division
Minister Aschmann

TRANSLATION OF DOCUMENT NG-5311
PROSECUTION EXHIBIT 3526

MESSAGE FROM DEFENDANT WEIZSAECKER TO NINE GERMAN EMBASSIES OR LEGATIONS, 10 MARCH 1939, CONCERNING APPROACHES OF CZECHOSLOVAK OFFICIAL HUBER MASARIK TO THE GERMAN FOREIGN OFFICE AND GERMAN REPLIES THERETO

Copy to IV Pol 1515

Berlin, 10 March 1939

To	1. German Embassy London	No. 49
	2. German Embassy Washington	No. 51
	3. German Embassy Paris	No. 86
	4. German Embassy Warsaw	No. 30
	5. German Embassy Rome (Quir.)[2]	No. 90
	6. German Embassy Brussels	No. 20
	7. German Legation Budapest	No. 39
	8. German Legation Bucharest	No. 58
	9. German Legation Belgrade	No. 34

(It is not necessary to inform the Legation in Prague, since Legation Counsellor Hencke happened to be in Berlin at the time of Minister Masarik's visit and was orally informed about the course of the conversations.)

Only for information!

At the beginning of this month, the Chief of the Ministerial Office of the Czechoslovak Foreign Minister, Minister Huber Ma-

[1] Huber Masarik, Chief of the Ministerial Office (Kabinettchef) of Czechoslovak Foreign Minister Chvalkovsky; not to be confused with Jan Masaryk, Czechoslovak Minister in London, 1925–38, Foreign Minister in the Czechoslovak Government in exile, 1940–45, and Foreign Minister of Czechoslovakia, 1945–48.

[2] "Embassy Rome—(Quir.)" [Quirinal] meaning the embassy to the Italian Government; "Embassy Rome—(H. St.)" [Heiliger Stuhl] means the embassy to the Holy See.

sarik, called unofficially at the Foreign Office. He stated that his chief was prepared to come himself to Berlin but did not want to trouble the Reich Foreign Minister personally in the present international situation. Chvalkovsky's policy aimed at perfect clarity and closest cooperation with the Reich. This view was shared by the entire Czechoslovak Cabinet. In order to achieve the most friendly relations with Germany, the Czechoslovak Government was prepared for all discussions and guaranties. In particular, it wished to solve the question of the ethnic German minority in full accordance with the desires of Berlin. It was prepared to accept an ethnic German minister, who was to be designated by Berlin, into the Czechoslovak Cabinet as a guarantor for a loyal policy. The number of the German Military Attachés in Prague could be increased to such an extent that the Reich would be in full control of the disarmament of the Czechoslovak Army. Finally, Czechoslovakia was prepared to enter immediately into negotiations about closest economic and financial cooperation with the Reich. Any further wish of the Reich could count on a friendly reception.

The reply to Masarik was that the questions broached by him could only be discussed between [Cabinet] Minister and [Cabinet] Minister. Apart from that, it was our view that the Czechoslovak Cabinet had still a great number of other questions to solve. In particular, according to our information, the Benes system [Benesch System] was still prevailing in the leading position. Thus almost nothing had changed in the domestic political structure of the country. The German ethnic group complained of being now even worse off than in last fall during the crisis. The whole special legislation directed against the ethnic Germans was still in force in spite of our admonition. The recent anti-Jewish legislation of Czechoslovakia was used not against Jews but for the elimination of ethnic Germans. The relations of the Czechs with the Slovaks and Carpatho-Ukrainians within the State were also far from clear. It would have to be the task of the Prague government to work first of all on the consolidation of the State [Staatswesen] and to carry on the disarmament of the Army.

A similar unofficial approach by the Czechoslovak Legation here on 9 March was refused in the same manner.

WEIZSAECKER

TRANSLATION OF DOCUMENT NG-5356
PROSECUTION EXHIBIT 3525

CODED TELEGRAM FROM VON DRUFFEL* IN BRATISLAVA TO THE GERMAN FOREIGN OFFICE, 10 MARCH 1939, CONCERNING TISO'S ALLEGED CALL FOR GERMAN HELP AND RELATED MATTERS

Telegram (Secret Code)

Bratislava 10 March 1939, 1740 hours
Arrival 10 March 1939, 2020 hours
No. 18 of 10 March

Urgent

Senator Polyak, who just came from an interview with Tiso, declared, when I accidentally happened to meet him, that the report of Tiso's appeal to the Fuehrer for help was incorrect. Tiso could not take this step without putting himself in the wrong with Prague. Help would, however, be *welcomed* in any shape or form.

Veesenmayer declared: Tiso, who had originally given his consent by word of mouth and later refused to sign, had then empowered Durcansky also to act in his name.

In Tiso's circles there is apprehension that the Germans, if they are called once, will not go away again.
[Initial] W [WEIZSAECKER]

DRUFFEL

[Stamp]
Made out in 17 copies
They were sent:
No. 1 to Po. IV (working copy)
2 to Reich Foreign Minister
3 to State Secretary
4 to Chief Foreign Organization
5 to Office of the Reich Foreign Minister
6 to Director Personnel
7 to Director Political Division
8 to Deputy Director Political Division
9 to Director Economic Policy Division
10 to Deputy Director Economic Policy Division
[Other distributees illegible]

* Dr. Ernst von Druffel, German Consul General and Chargé d'Affaires at Bratislava.

PARTIAL TRANSLATION OF DOCUMENT NG-3956*
PROSECUTION EXHIBIT 118

MEMORANDUM FROM FIELD MARSHAL KEITEL TO THE FOREIGN OFFICE, 11 MARCH 1939, CONCERNING "MILITARY DEMANDS FOR AN ULTIMATUM" TO CZECHOSLOVAKIA

Copy Berlin, 11 March 1939

Top Secret

By Officers Only

O.K.W. Dept. L

Subject: Military Demands for an Ultimatum

To the Foreign Office

On the basis of a Fuehrer directive we are sending you by enclosure the military demands for an ultimatum.

The Chief of the High Command of the Armed Forces

Signed: KEITEL

Written by Officer

Top Secret Berlin, 12 March 1939

High Command of the Armed Forces 5 copies, copy No. 1

Nr. 27/39 Top Secret, WFA/L (Ia) Chefs

Demand for an Ultimatum

1. No resistance on the part of the armed forces or of police troops which remain in their barracks and have to surrender their arms.

2. All military traffic and private airplanes are prohibited to take off. Military airplanes are to be deposited in civilian air fields.

3. All antiaircraft guns and antiaircraft machine guns are to be removed from their firing positions and to be deposited in barracks.

4. No changes are to be made on air fields and their installations.

5. Public life is not to be interrupted but all official offices, particularly railroad and postal service, are to continue to work and to be kept available at the disposal of the occupying executive power [einrueckende Inhaber der vollziehenden Gewalt].

* This document was found in one of the files of the office of State Secretary Keppler, marked "Buero St. S. Keppler." Other parts of this document, which contained several separate parts, are reproduced later in this section.

6. No disturbance of economic life; particularly banks, trade, and industry, will continue to work.

7. Media of public opinion, the press, the theater, radio, or other public presentations are to remain completely reticent.

Distribution:

Office of the Foreign Minister
State Secretary [defendant von Weizsaecker]
State Secretary Keppler
Under State Secretary [defendant Woermann]
Ministerialdirektor Gaus
Legation Counsellor First Class Heyden-Rynsch
Dirigent Political Division

TRANSLATION OF DOCUMENT NG-4472
PROSECUTION EXHIBIT 884

PRESS DIRECTIVE CONCERNING THE HANDLING OF NEWS CONCERNING CZECHOSLOVAKIA, 11 MARCH 1939*

Directive No. 293

Instructions to the Press Conference [Bestellungen aus der Presskonferenz] of 11 March 1939

In today's press conference the most important aspects of yesterday's makeup directives [Aufmachungsvorschriften] and directions for composition were confirmed. To be sure, these can now be set up in three column instead of two column format. The tempo should be slightly accelerated in the use of the reports. The following point of view is to be observed particularly closely. Under no circumstances should the impression be created that the Czechs have executed a legal act [legale Handlung] nor that the Czechs have accomplished something that will restore quiet and order. To the contrary already those reports are to be used which show that quiet and order are rapidly disappearing. There is only one legal Slovak government. That is the one which existed before the attacks [Eingriffe] and the speaker of which is Durcansky, who is personally in Germany. Everything that the Czechs have set up until now is illegal, including such decisions of the Slovak Diet which must have been issued under military pressure. The Czechs published a report that Herr Sidor now has also joined

* This directive was taken from the so-called "Brammer material." Brammer operated a German news service and saved all the press directives of the Nazi period which came into his possession. Brammer's files, 14 volumes in all, were later made available to the prosecution in Nuernberg. Brammer executed an affidavit (Document NG-3070) concerning these files and the role of the defendant Dietrich, as Reich Press Chief, and others in control of the press in Germany.

the new government. No notice is to be taken of this since the freedom of choice of Sidor is to be doubted, no pictures are to be published which show the new men whom the Czechs have named perhaps with new titles as was done this morning by "V.N." Tact must be shown under all circumstances in the strictest sense. The ban against commentaries continues. The commentaries must be confined to the titles, however, more space shall be made available progressively for these reports. Also the reports of foreign correspondents are to be handled according to this standard, no Czech propaganda via Paris or London, and special caution in respect to reports from Warsaw which are all pro-Czech.

In particular, reports of the Slovak dead are to be especially played up. The Slovak people in its new part in the fight for autonomy has offered its first dead.

TRANSLATION OF DOCUMENT NG-3045
PROSECUTION EXHIBIT 117

MEMORANDUM TO THE OFFICE OF VON RIBBENTROP AND TO DEFENDANTS VON WEIZSAECKER AND WOERMANN AND OTHERS, 12 MARCH 1939, CONCERNING REPORT FROM VIENNA BY DEFENDANT KEPPLER ON DEVELOPMENTS IN CZECHOSLOVAKIA

Strictly confidential!

Memorandum

State Secretary Keppler, Vienna, Hotel Imperial, upon telephone inquiry, reports as follows:

According to his opinion, the situation was rather "in a mess" ["verkorkst"]. He had the impression that the "higher-ups" ["beiden hohen Herren"] (he evidently meant Seyss-Inquart and Buerckel) had been fooled by the people on the other side [waeren den Leuten drueben aufgesessen]. Sidor apparently had been bribed by the Czechs. One could not do anything with him. At present there was calm in Bratislava. It would be rather difficult to find new starting points. He, Keppler, upon instruction by the Reich Minister of Foreign Affairs, would remain in Vienna for the time being.

When questioned what had become of the proclamation planned by Durcansky, Mr. Keppler stated that this—by way of an indiscretion—had already reached the foreign correspondents.

Berlin, 12 March 1939

Signed: ALTENBURG

Distribution:
Office Reich Foreign Minister
State Secretary [the defendant von Weizsaecker]
Under State Secretary [the defendant Woermann]
Dirigent Political Division
Pol. I. M.—L. R
v. d. Hayden-Rynsch
Ambassador Aschmann
L. R. Schmidt, Press Department

TRANSLATION OF DOCUMENT 2802–PS
PROSECUTION EXHIBIT 120

HEWEL'S[1] RECORD OF THE HITLER-TISO CONFERENCE IN BERLIN IN THE PRESENCE OF VON RIBBENTROP, KEITEL, AND DEFENDANTS MEISSNER, DIETRICH, AND KEPPLER, 13 MARCH 1939, CONCERNING DEVELOPMENTS IN CZECHOSLOVAKIA, SLOVAKIA'S POSITION, AND RELATED MATTERS[2]

[Handwritten] 13 March 1939

CONFERENCE BETWEEN THE FUEHRER AND THE SLOVAK PRIME MINISTER TISO

In the study of the Fuehrer in the New Reich Chancellery from 1840–1915 hours, 13 March 1939

Other persons present were—
The Reich Minister for Foreign Affairs
State Minister Meissner
General Keitel
General Brauchitsch
State Secretary Dietrich
State Secretary Keppler
Minister Durcansky

The Fuehrer greeted Prime Minister Tiso and described to him in a long detailed account the developments in Czechoslovakia. Since the autumn of last year, Germany had experienced two disappointments. One was with regard to Czechoslovakia, partly because of ill-will, partly as for example in the case of Chvalkovsky who, out of weakness, could not prevent the development

[1] Hewel was Chief of the Personal Staff of the Reich Foreign Minister and Plenipotentiary of the Foreign Ministry with the Fuehrer. He also made the official record of the Hitler-Hacha conference on 15 March 1939 (*2798–PS, Pros. Ex. 122*), reproduced later in this section.

[2] This document was introduced in the IMT trial as Document 2802–PS, Exhibit USA–117. The German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXI, pages 150–153.

of political circumstances which were intolerable to Germany. Czechoslovakia had only Germany to thank that she had not been mutilated further. With the greatest forbearance Germany had renounced claims to the islands of German speech [Sprachinseln] lying on her borders in order to assure to Czechoslovakia a normal living space. There had been no thanks for this. No Czech had lost his job in Germany. On the contrary, numerous Czechs had been received by us. Not a hair of these persons' heads had been ruffled, nor had they been insulted or attacked. It was envisaged quite differently on the Czech side. The sternest dismissal measures had been carried out against Germany, thousands had found themselves without means of earning their bread. Everywhere Germans had been provoked or discriminated against. The Germans had been subject to constant surveillance so that their situation was now worse than before the September crisis.

This development was not in accordance with the agreements. Until the day before yesterday Germany had striven for an absolutely loyal attitude in the press. It [the press] had been restrained and had not mentioned many things which had happened there in order to maintain a wholesome atmosphere. During this time the Czech press had repeatedly published unfavorable things about Germany, certain organs had not ceased their systematic agitation. Pamphlets and propaganda by word of mouth had been continuous. The momentary situation was described to the Czechs as a temporary affair, time and again hopes based on a change to the disadvantage of Germany had been awakened in the people. The Fuehrer had already spoken of this to Chvalkovsky and reproached him that oil had continuously been thrown on to the fire. Central Europe was a fixed, closed economic area which could only live when fully pacified. It needed pacification. Geographically the situation was made clear by the fact that Bohemia and Moravia were enclosed by Germany, and Germany could never tolerate in her own territory a hot-bed of unrest.

In recent weeks the circumstances had become unbearable. The old spirit of Benes had again been revived. The Czech people had been incited to resistance. Conditions were insecure and tumultous. Yesterday incidents in Brno und Jihlava [Iglau] occurred. While we had treated the Czechs in Germany well, the situation in Czechoslovakia was unstable, Germany could no longer permit those conditions. Likewise, German nationals over there were defending themselves, as they did not see why things should be worse now than before.

We had solved the Czech question then according to our philosophy [Weltauffassung]. If, however, this solution leads to no results, then we have decided absolutely to pursue it to its conclusion, without consideration for this ideological principle.

The second disappointment for us was the attitude of Slovakia. In the past year the Fuehrer had had to face a difficult decision, whether or not to permit Hungary to occupy Slovakia. The Fuehrer had been under a wrong impression as he had of course believed that Slovakia wished to be annexed to Hungary. This error was founded on the fact that Slovakia was further away from Germany and on the importance of the more serious problems which then overshadowed this problem. It was only in the crisis that the Fuehrer was dissuaded from this opinion. It was then that he first heard and noted that Slovakia wished to conduct her own affairs.

At Munich the Fuehrer did not play power politics [machtpolitische wege] in his decisions but took the line of national politics [volkspolitische wege]. He did something which alienated some of his friends in Hungary from him, namely those against whose wishes he had carried out this principle for Hungary also. He had repeatedly explained this some months previously.

Now he had sent Keppler as his envoy [Abgesandten] to Bratislava, to whom Sidor had declared that he was a soldier of Prague and would oppose a separation of Slovakia from the Czechoslovak Union. If the Fuehrer had known this earlier, he would not have needed to antagonize his friends in Hungary, but on the contrary, let events follow the course they were then taking.

Now he had permitted Minister Tiso to come here in order to make this question clear in a very short time. Germany had no interests east of the Carpathian mountains. It was indifferent to him what happened there. The question was whether Slovakia wished to conduct her own affairs or not. He did not wish for anything from Slovakia. He would not pledge his people or even a single soldier to something which was not in any way desired by the Slovak people. He would like to secure final confirmation as to what Slovakia really wished. He did not wish that reproaches should come from Hungary that he was preserving something which did not wish to be preserved at all. He took a liberal view of unrest and demonstration in general, but in this connection, unrest was only an outward indication of interior instability. He would not tolerate it and he had for that reason permitted Tiso to come in order to hear his decision. It was not a question of days but of hours. He had stated at that time that Slovakia wished to make herself independent; he would support his endeavor and even guarantee it. He would stand by his word as long as Slovakia would make it clear that she wished for independence. If she hesitated or did not wish to dissolve the connection with Prague, he would leave the destiny of Slovakia to the mercy of events, for which he was no longer responsible. In

that case he would only intercede for German interests and those did not lie east of the Carpathians. Germany had nothing to do with Slovakia. She had never belonged to Germany.

The Fuehrer asked the Reich Foreign Minister if he had any remarks to add. The Reich Foreign Minister also emphasized for his part the conception that in this case a decision was a question of hours not days. He showed the Fuehrer a message he had just received which reported Hungarian troop movements on the Slovak frontiers. The Fuehrer read this report, mentioned it to Tiso, and expressed the hope that Slovakia would soon decide clearly for herself.

Tiso thanked the Fuehrer for his words. He had for some time longed to hear from the Fuehrer himself how he [the Fuehrer] stood in relation to his [Tiso's] people and country and how he regarded the problems. He took note of what had been said and gave the assurance that the Fuehrer could rely on Slovakia. He wished to be excused for the fact that under the impression made by the Fuehrer's words he could not clearly express his opinion at that moment or could hardly make a decision. He wished to withdraw with his friend and to think the whole question over at his ease; they would however, show that they were worthy of the Fuehrer's care and interest for their country. With that the conversation was ended.

Signed: HEWEL

PARTIAL TRANSLATION OF DOCUMENT NG–3956* PROSECUTION EXHIBIT 118

FILE MEMORANDUM OF SENIOR LEGATION COUNSELLOR ALTENBURG, 14 MARCH 1939, STATING THAT THE DEFENDANT KEPPLER HAD JUST BEEN INFORMED OF THE DECLARATION OF SLOVAK INDEPENDENCE

As a result of a telephone call, the Landtag Bratislava has just informed State Secretary Keppler of the following:

The Landtag has decided the independence of Slovakia. A cabinet with Minister President Tiso was inaugurated (Sidor Minister of the Interior). Czech officers have handed the command of troops to Slovakian officers. The Slovaks are in a position to safeguard the security of the country and of the frontiers.

The proclamation of the independence of Slovakia will be announced immediately by the Bratislava radio station in Slovak

* This document was found in one of the files of the office of State Secretary Keppler. Other parts of this document, which contained several separate parts, are reproduced elsewhere in this section.

933764O—51——57

and again in German. There has been a change from the text of yesterday. Whether a telegram to the Fuehrer will be sent off could not be answered exactly by telephone by the Speaker of the Landtag.

The entire country is quiet.

Berlin, 14 March 1939
[Initial] A [ALTENBURG]

Note. The German radio stations have been instructed to relay the proclamation of the Bratislava radio station immediately.

TRANSLATION OF DOCUMENT NG-4845
PROSECUTION EXHIBIT 3534

TELEGRAM FROM DEFENDANT VON WEIZSAECKER TO VARIOUS GERMAN DIPLOMATIC AND CONSULAR REPRESENTATIVES, 14 MARCH 1939, ANALYZING REASONS WHICH FORCED GERMANY TO TAKE "THE NECESSARY STEPS" AND ANNOUNCING HACHA'S IMMINENT VISIT TO HITLER

Berlin, 14 March 1939

State Secretary [check-mark]
Under State Secretary [initial] W.
[Woermann] 14 March
Deputy Chief, Political Division
[Initial] B. [von Bismarck]
14 March

Telegram in cipher

(secret cipher)

Without previous files. See Pol. IV. 1672
[Handwritten] I enclosure presented 14 March 1939
Urgent!

To the diplomatic and consular representatives who are marked in red in the enclosure.*

[*"Only" crossed out*] *For information* [*Handwritten*] *and use in official communications*

The events of the last few days have finally proved that the government in Prague is neither willing nor able to insure lasting peaceful conditions in the country on the basis of its constitution as it has been up to now. In Slovakia, the illegal measures taken by Prague against the autonomy have caused the Slovak Diet to

* This enclosure was not found with original document as processed by the prosecution.

proclaim the independence of the Slovak State. In the Carpatho-Ukraine serious clashes between Czechoslovak troops and the Carpatho-Ukrainian self-defense organization Sitsh occurred as a result of the nomination of General Prchala. As a result of these events and other occurrences on the frontier, parts of the Hungarian Army have moved into the Carpatho-Ukraine *for the purpose of safeguarding the Hungarian population.* [Italicized portion handwritten] From Czechoslovakia herself, increasingly urgent requests for aid are continuously being received from the ethnic Germans persecuted by the Czechs. Confusion, unrest and terror are reigning in all parts of the country. In this serious situation the Reich Government was forced to take the necessary steps, conscious of its responsibility for the securing of peace in Central Europe and for the purpose of eliminating the chaotic conditions on the eastern frontier of the Reich which are intolerable to the interests of the Reich. The Czechoslovak State President Hacha will arrive in Berlin tonight, at his request, in order to be received by the Fuehrer.

Supplement only for the diplomatic missions.

["Use in official communications" crossed out] Tenor of the opinion of the Reich Government concerning the situation and our decisions resulting from it, will follow in order to be communicated to the government there.

WEIZSAECKER

[Initial] W. [WEIZSAECKER] 14 March
[Initial] W. [WOERMANN] 14 March
[Initial] B. [VON BISMARCK] 14 March
[Initial] H. [HEINBURG] 14 March

TRANSLATION OF DOCUMENT NG–5304*
PROSECUTION EXHIBIT 3535

NOTE OF DEFENDANT VON WEIZSAECKER FOR A TELEPHONE CALL TO BE MADE TO GERMAN CONSUL VON DRUFFEL IN BRATISLAVA, 15 MARCH 1939, REQUESTING VON DRUFFEL TO INFORM THE SLOVAK GOVERNMENT THAT GERMAN TROOPS WILL START TO OCCUPY SLOVAKIA AT 0600 HOURS ON 15 MARCH 1939

Telephone call to von Druffel, Bratislava

In the course of the action, which is known there, it will be necessary for military reasons that the German troops will also cross the Slovak frontier on 15 March [1939] and advance up to

* This document and Document NG–5361, reproduced immediately following, were both marked for identification as Prosecution Exhibit 3535 during the cross-examination of defendant von Weizsaecker. See the extracts from the testimony of defendant von Weizsaecker reproduced later in this section.

the line Nove Mesto-Eastern slope of the Little Carpathians-Vah Valley. At the express wish of the Slovak government, Bratislava will be excepted from the occupation. I ask you to bring this immediately to the knowledge of the Slovak government. Speed is required since the occupation will start at 6 o'clock in the morning. We take it for granted that the occupying German troops will only not meet any resistance but, on the contrary, be afforded every necessary assistance.

Please report execution.

WEIZSAECKER

TRANSLATION OF DOCUMENT NG-5361
PROSECUTION EXHIBIT 3535

FOREIGN OFFICE MEMORANDUM, 15 MARCH 1939, REPORTING VON DRUFFEL'S COMPLIANCE WITH DEFENDANT VON WEIZSAECKER'S INSTRUCTION

Memorandum

At 6:55 a.m., Consul von Druffel reports from Bratislava over the telephone:

The instructions communicated to me by Geheimrat Altenburg at 4:30 a.m.—signed by von Weizsaecker—have been carried out by me by communication to Foreign Minister Durciansky [Durcansky] at 5:20 a.m.

Durciansky [Durcansky] expressed surprise since the announced measure had not been provided for in the conversation between Tiso and Seyss-Inquart. He promised to do his utmost to have it carried out without friction.

In the meantime the Slovak Minister of War called on me and asked to send a liaison officer to Bratislava. He further suggested to send a Slovak liaison officer to the German command of the occupation troops. He also indicated that the Slovak government would probably ask for a German Military Mission.

CONSUL VON DRUFFEL

Received by Legation Secretary von Wallfeld

The telephone call was forwarded over the phone to the High Command of the Army (Officer on duty Major Esebeck).

The following were informed of the text:
Under State Secretary Woermann
Senior Legation Counsellor Heinburg and
Legation Counsellor von Heyden-Rynsch

TRANSLATION OF DOCUMENT 2798–PS
PROSECUTION EXHIBIT 122

HEWEL'S RECORD OF THE HITLER-HACHA CONFERENCE IN BERLIN IN THE PRESENCE OF CHVALKOVSKY, GOERING, KEITEL, AND DEFENDANTS VON WEIZSAECKER, MEISSNER, DIETRICH, AND KEPPLER,[1] EARLY ON THE MORNING OF 15 MARCH 1939, AT WHICH HITLER INFORMED HACHA THAT HE HAD GIVEN THE ORDER FOR GERMAN TROOPS TO MARCH INTO CZECHOSLOVAKIA AT 0600 HOURS THAT DAY[2]

Conference between the Fuehrer and Reich Chancellor and the President of Czechoslovakia, Hacha, in the presence of the Reich Foreign Minister von Ribbentrop, and of the Czechoslovakian Foreign Minister, Chvalkovsky, in the Reich Chancellery on 15 March 1939, 0115–0215 hours.

Others present were—
Field Marshal Goering
General Keitel
State Secretary von Weizsaecker
State Minister Meissner
State Secretary Dietrich
Legation Counsellor Hewel

President Hacha greets the Fuehrer and expresses his thanks for being received by the latter. He states that he had long wished to become acquainted with the man whose remarkable ideas he had often read and followed. (They are seated) Hacha—He had been unknown until a short time ago. He had never taken part in politics but had been a legal official in the Viennese civil service [Verwaltungsapparat], and as such he purposely had not paid any attention to politics, in order to remain impartial to the parties toward whom he had to act as a judge. In 1918 he was called to Prague and in 1925 was appointed president of the Supreme Administrative Court [Verwaltungsgerichtshof]. As such he had had no connection with the politicians, or as he would rather say, to the "politicasters," and very seldom came into contact with them. He must mention at once that he had hardly any relations with the government and that his intercourse with the members of the government was restricted to a minimum. He never had been *persona grata*. He met with President Masa-

[1] The defendant Keppler's name does not appear on Hewel's record of the conference but the defendant Keppler testified that he was present throughout the conference. See extracts from the defendant Keppler's testimony reproduced later in this section.

[2] This document was introduced in the IMT trial as Exhibit USA–118 and the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXI, pages 139–148.

ryk only once a year at a dinner for the judges and he met Benes even more rarely. The one time he had met the latter, they had had a misunderstanding. Otherwise the whole regime was alien to him, so alien that immediately after the change [in Government] [Umschwung] he had asked himself if it was fortunate for Czechoslovakia to be an independent state. This fall the task fell to him of heading the state. He was an old man. His misgivings were overcome when it was represented to him as a patriotic duty to take over the position. In taking over this position he was faced with the most difficult task of his life and thus he had been bold enough to ask the Fuehrer to receive him.

He was convinced that the fate of Czechoslovakia was in the hands of the Fuehrer and he believed that her fate was well cared for in his hands. He had no grounds for complaint in what had recently taken place in Slovakia. He had long been convinced that the various peoples in this body-politic could not live together. Although their language was quite similar, they had developed differently and Czechoslovakia was more closely related to Germany than to Slovakia, which leaned more toward the Magyars. The Czechs had had relations only with the Protestant Slovaks while they had repulsed the Catholic Slovaks. For these reasons a good understanding could never have been reached and he was glad that matters had developed in this way. He was not alone in this opinion, which surely was shared by 80 percent of the population.

Half an hour ago he had received the announcement that the Carpatho-Ukraine had declared itself independent. He believed that the Fuehrer would have none too favorable experiences with the Slovaks. The Fuehrer had probably heard rumors in the last few days that Prague had committed a violation of the constitution. This violation of the constitution would then have to be blamed on him. But he as jurist knew that the government was dismissed on a strictly legal basis. For the constitution itself had not been observed by a portion of the Czech Government. In this connection, unfortunately events occurred which he regretted, but which were brought about by application of measures to enforce order. They had not been intentional. But, otherwise, he was not shedding any tears over Slovakia.

But now he came to that which moved him most, the fate of his people. He believed that the Fuehrer was the one who would understand him if he stated the opinion that Czechoslovakia had the right to want to live a national life. The geographical location of Czechoslovakia naturally required the best relations with Germany. This was the basis of its existence as an independent nation. This conviction was shared by the larger part of the

Czech people. There were of course, several exceptions, but it must be considered that the new Czechoslovakia had been in existence for only 6 months. Czechoslovakia had been reproached for still having many adherents of the Benes system. But they are not the ones who were named as such. Only in journalistic circles did this system still have friends. The government was trying, by every means, to shut them up. This was about all that he wished to present.

The Fuehrer replies that he regretted that he had to require this journey of the President. But this morning, after long consideration, he became convinced that this journey, in spite of the advanced age of the President, could be of great advantage to his country. For it was only a matter of hours until Germany would intervene. The German Reich, on principle, felt no enmity toward any other nations. It was fond of, or at least uninterested, in nations that did it no wrong. The German people had no hatred for Czechoslovakia. Czechoslovakia, however, had a very different attitude towards us. The Fuehrer gives various examples to illustrate how this attitude had shown itself in connection with great political events as, for instance, during the occupation of the Rhineland. At that time Czechoslovakia had addressed a note to France saying that Czechoslovakia would also be ready to join in, in the case that France would take military steps against Germany. Czechoslovakia had done so, notwithstanding the fact that the territory in question was purely German. This same attitude she had shown many times, for instance, against Italy during the Ethiopian conflict, etc. In 1938 the situation had become unbearable. On 28 May he had decided to face the consequences. He did not feel hostility against any nation but he was the most ruthless defender of the rights of his own people and in this struggle he was determined to take any step. In regard to this he was the front soldier who ruthlessly and without scruples stands up and fights for his conviction. His loyal attitude alone was responsible for the remaining part of Czechoslovakia. He took the risk of turning the friendly attitude of Hungary towards him into a hostile one by stopping Hungary's political ambitions and forcing her to solve the problem according to ethnographic principles as Germany did. He did this despite the fact that the craziest economic and tariff situations followed. He took the responsibility for these restrictions not because he could not have acted otherwise but because he was convinced that it was the right thing to do. For the other countries, Czechoslovakia was nothing but a means to an end. London and Paris were not in a position to really stand up for Czechoslovakia.

Slovakia was a matter of indifference to him. If Czechoslovakia had kept closer to Germany, it would have been an obligation to Germany but he was glad that he did not have this obligation now. He had no interests whatsoever in the territory east of the Little Carpathian Mountains. He did not want to draw the final consequences in the autumn because he had believed that it was possible to live together. But even at that time and also later in his conversations with Chvalkovsky he made it clear that he would ruthlessly smash this state if Benes' tendencies did not completely disappear. Chvalkovsky understood this and asked the Fuehrer to have patience. The Fuehrer saw this point of view but the months went by without any change. The new regime did not succeed in eliminating the old one psychologically. He observed this from the press, mouth to mouth propaganda, dismissals of Germans and many other things which, to him, were a symbol of the whole situation. At first he had not understood this but when it became clear to him he drew his consequences because, had the development continued in this way, [German] relations with Czechoslovakia would in a few years have become the same as 6 months ago. Why did Czechoslovakia not immediately reduce its army to a reasonable size? Such an army was a tremendous burden for such a state because it only made sense if it supported the foreign political mission of the state. Since Czechoslovakia no longer had a foreign political mission, such an army was meaningless. He enumerates several examples which proved to him that the spirit in the army had not changed. This symptom convinced him that the army also would be a source of a severe political burden in the future. Added to this were the inevitable development of economic necessities and, further, the protests from national groups which could no longer endure life as it was.

"Thus it is that the die was cast on the past Sunday. I sent for the Hungarian Ambassador and told him that I am withdrawing my hands from this country." *We were now confronted with this fact. He had given the order to the German troops to march into Czechoslovakia and to incorporate Czechoslovakia into the German Reich.* He wants to give Czechoslovakia fullest autonomy and a life of her own to a larger extent than she ever had enjoyed during Austrian rule. Germany's attitude towards Czechoslovakia would be determined tomorrow and the day after tomorrow and depends on the attitude of the Czechoslovak people and the Czechoslovak military towards the German troops. He no longer trusts the government. He believes in the honesty and straightforwardness of Hacha and Chvalkovsky, but doubts that the government will be able to assert itself in the entire nation.

The German Army had already started out today and at one barracks where resistance was offered, it was ruthlessly broken; another barracks had given in at the deployment of heavy artillery.

At 6 o'clock in the morning the German Army would invade Czechoslovakia from all sides and the German air force would occupy the Czech airfields. There existed two possibilities. The first one would be that the invasion of the German troops would lead to a battle. In this case the resistance will be broken by all means with physical force. The other possibility is that the invasion of the German troops occurs in bearable form. In that case it would be easy for the Fuehrer to give Czechoslovakia at the new organization of Czech life a generous life of her own, autonomy and a certain national liberty.

We were witnessing at the moment a great historical turning point. He would not like to torture and denationalize the Czechs. He also did not do all that because of hatred but in order to protect Germany. If Czechoslovakia in the fall of last year had not yielded, the Czech people would have been exterminated. Nobody could have prevented him from doing that. It was his will that the Czech people should live a full national life and he believed firmly that a way could be found which would make far-reaching concessions to the Czech desires. If fighting would break out tomorrow, the pressure would result in counter-pressure. One would annihilate one another and it would then not be possible any more for him to give the promised alleviations. Within 2 days the Czech army would not exist any more. Of course, Germans would also be killed and this would result in a hatred which would force him, because of his instinct of self-preservation, not to grant autonomy any more. The world would not move a muscle. He felt pity for the Czech people when he was reading the foreign press. It would leave the impression on him which could be summarized in a German proverb: "The Moor has done his duty, the Moor may go."

That was the state of affairs. There existed two trends in Germany, a harder one which did not want any concessions and wished in memory to the past that Czechoslovakia would be conquered with blood, and another one, the attitude of which corresponded with his just mentioned suggestions.

That was the reason why he had asked Hacha to come here. This invitation was the last good deed which he could offer to the Czech people. If it would come to a fight, the blood shed would also force us to hate. But the visit of Hacha could perhaps prevent the extreme. Perhaps he would contribute to finding a form of construction which would be so far-reaching for Czecho-

slovakia as she could never have hoped for in the old Austria. His aim was only to create the necessary security for the German people.

The hours went past. At 6 o'clock the troops would march in. He was almost ashamed to say that there was one German division to each Czech battalion. The military action was no small one, but planned with all generosity. He would advise him now to retire with Chvalkovsky in order to discuss what should be done.

Hacha states that the situation is quite clear to him and that in this case any resistance is senseless. But he would ask the Fuehrer how he would go about, to restrain in four hours all of the Czech people from resisting. The Fuehrer said he should hold council with his men. The now rolling military machine could not be stopped. He should turn to his offices in Prague. It was a great decision but he could see the possibility for a long period of peace between both nations. If the decision would be different he could foresee the destruction of Czechoslovakia.

Hacha asks whether it was the whole purpose of the invasion to disarm the Czech Army. This could perhaps also be done in a different manner.

The Fuehrer states that his decision is irrevocable. It was well known what a decision of the Fuehrer meant. He did not see any other possibility for disarmament and asked the other gentlemen whether they shared his opinion which was answered in the affirmative. The only possibility to disarm the Czech Army was by the German Army.

Today this was for Hacha the hardest step of his life but he believed that already in a few years this decision would be viewed as comprehensible and in 50 years probably as a blessed one.

After that both Czechs withdraw.

After the conference between Hacha and Chvalkovsky and our gentlemen at the conclusion of which one had come to an understanding on the wording of the agreement, the gentlemen listed at the beginning of this report came once more together for a final discussion in the Fuehrer's study. Again the military situation is being thoroughly discussed and the Field Marshal describes the situation once more in detail. The Fuehrer thinks that perhaps Hacha's message may have not gotten through to some places where clashes of arms may be expected but one could by and large figure on an invasion without incidents.

The Fuehrer continues that according to his belief, in spite of all the embitterment which could be caused by the invasion and occupation by Germany, nevertheless the conviction would slowly dawn that a living together of the two nations for centuries was

advantageous. The idea that the two peoples were compelled to fight each other would disappear. Czechoslovakia was surrounded by Germany and every reasonable person would have to admit that a close living together of the two nations would be the watchword. Furthermore the problem of denationalization played no part, since such an idea was completely foreign to the Germans and to National Socialist ideology. We don't desire or aim at denationalization. The ones should live happily as Czechs and the others as Germans. The German Reich could be enormously magnanimous in this sphere.

Hacha replies that this remark of the Fuehrer was of the greatest importance to him.

The Fuehrer continues that only in economic, military, and political matters could no antithesis be allowed. Czechia [Tschechei] should keep her own head of state and his principles which he will carry through would form the basis for a pacification of this territory for centuries to come.

Hacha interjects and remarked that in other words this was not a plan for purchasing souls like it was during Austrian rule and asked whether economically, a customs union was planned.

The first point the Fuehrer denies with a smile. The second point is answered in the affirmative by the Field Marshal stating that Germany and Czechia were one territory economically speaking. Furthermore Czechia would receive orders which would certainly double her production.

The Fuehrer said that the Czech people would gain economically through the union with Germany because they would become a part of the large German economic sphere [grossen deutschen Wirtschaftsraum]. He did not want to destroy Czech economy but would enliven it tremendously.

Hacha asks whether detailed directives to that effect had already been prepared.

The Fuehrer replies that this was the responsibility of an economic commission because for him, too, the whole affair had come very suddenly. A few weeks ago he did not know a thing about the entire business. He talked again about the past and the tactics employed by Benes and finally mentioned 28 May, on which date he had announced his decision to act to a small circle.

The Fuehrer concludes that this settlement which now would be made was to be final, bearable, and should leave no doubts. In any case the Czechs would obtain more rights than they had ever granted to the Germans within their territory.

Thereupon the agreement was signed by the Fuehrer, the Reich Minister for Foreign Affairs, Hacha, and Chvalkovsky.[1]

[Signed] HEWEL

TRANSLATION OF DOCUMENT NG-3917[2] PROSECUTION EXHIBIT 123

HANDWRITTEN MEMORANDUM OF THE DEFENDANT VON WEIZSAECKER, 15 MARCH 1939, GIVING INSTRUCTIONS FOR TELEPHONE CALLS TO GERMAN EMBASSIES AND DELEGATIONS ADVISING THEM THAT INFORMATION IS FORTHCOMING WHICH WILL ENABLE THEM TO SHOW THAT GERMANY ACTED IN FULL AGREEMENT WITH THE CZECHOSLOVAK GOVERNMENT AND COPY OF PERTINENT AGREEMENT

1. Telephone call to—[3]		
5 (Miss Gusa)	London [check mark]	You will receive this morning instructions for a *démarche* [crossed out: "German action"] from which it will be clear that German action in Czechoslovakia takes place in full agreement [Einvernehmen] [crossed out: "Uebereinstimmung", a different word for agreement] with the Czechoslovak Government. [Signed] WEIZSAECKER
1 (Zilem)	Paris [check mark]	
8 (Col. Wahle)	Bucharest [check mark]	
4 (Miss Galler)	Belgrade [check mark]	
3 (Miss von Throtha)	Warsaw [check mark]	
2 (Miss Bohl)	Budapest [check mark]	
7 (Legation Counsellor Wille)	Sofia [check mark]	
2. Telephone call to—		You will receive this morning a telegraphic directive which makes it clear . . . . . [Signed] WEIZSAECKER
6 (Reisinger)	Rome	

Taken care of
[Illegible initial]
15 March 1939

[1] A copy of the agreement as introduced in evidence as a part of Document NG-3917, Prosecution Exhibit 123, is reproduced immediately below.

[2] Photographic reproduction of this document appears in appendix A, volume XIV.

[3] The entries on the left side of the page, which indicate that the telephone calls were accomplished by various persons, are not in the handwriting of the defendant von Weizsaecker. However, the entire text at the right hand side of the page is in von Weizsaecker's handwriting.

Copy of the Agreement Signed at the Conference of Hitler and Hacha on 15 March 1939[1]

[Handwritten] To be filed

The Fuehrer and Reich Chancellor has, today, in the presence of the Reich Minister for Foreign Affairs, von Ribbentrop, received the Czechoslovak State President, Dr. Hacha and the Czechoslovak Foreign Minister, Dr. Chvalkovsky, in Berlin on their own request. At this meeting the situation which arose because of the serious condition existing on Czechoslovak territory during the past weeks was examined in all frankness. On both sides agreement was reached on the conviction that the aim of all efforts should be the safeguarding of quiet, order and peace in this part of Central Europe. The Czechoslovak State President [the following typewritten words are crossed out on the document: "in the name of his government"] declared that he, in order to serve this purpose and to accomplish final appeasement, is placing the fate of the Czech people and country with confidence into the hands of the Fuehrer of the German Reich. The Fuehrer has accepted this declaration and has announced his decision to take the Czech people under the protection of the German Reich and to safeguard an autonomous development, in accordance with the characteristics of its ethnic life.

In witness thereof this document has been signed in two copies.
Berlin, 14 March 1939

[Handwritten][2] Signed ADOLF HITLER
[Handwritten] Signed VON RIBBENTROP
[Handwritten] Signed DR. HACHA
[Handwritten] Signed CHVALKOVSKY

[Handwritten on file tab] Demands of the Reich Government

The Czechoslovak State President, Dr. Hacha, and the Czechoslovak Foreign Minister, Dr. Chvalkovsky, have been informed of the demands made on the part of Germany on the attached memorandum for the execution of the initiated military action [eingeleiteten militaerischen Aktion]. In the name of their gov-

[1] This exhibit was received in evidence without objection on 22 January 1948 (*Tr. pp. 677–680*). The document was found in the files of the German Foreign Office, folder "St. S. I. 60/2." In offering the document, prosecution counsel offered it as a copy of the agreement signed by Hitler, von Ribbentrop, Hacha, and Chvalkovsky but noted expressly that the signatures on this copy were not in the handwriting of the four persons who signed the agreement. on this copy were not in the handwriting of the four persons who signed the agreement. Apparently the original document with the signatures has not been discovered. The date of the document is 14 March 1939, which is wrong in the sense that the signatures were not put to the German draft of the agreement until sometime between 0115 and 0215 hours on 15 March 1939 (see the record of the conference, Doc. 2798-PS, Pros. Ex. 122, reproduced just above).

[2] The four names appearing at the bottom of the document are all written in the same handwriting. Apparently they were written in by the official who prepared this copy for the files of the State Secretary, where this copy was found.

ernment they have given assurances that all measures will be taken immediately which are necessitated by the fulfillment of these demands.

Berlin, 15 March 1939

[Handwritten] HACHA
[Handwritten] CHVALKOVSKY

The Reich Government demands—

1. That the armed forces and police troops remain in their barracks and surrender their arms.

2. That orders be issued to prohibit the take-off of all military traffic and private planes and that military airplanes remain in civilian airports.

3. That all antiaircraft guns and antiaircraft machine guns are removed from their firing positions and deposited in barracks.

4. That no changes be made on airfields and their installations.

5. That no interruption of public life take place, but that instead the continuation of all official work be secured, in particular that of the railroads and the postal system which are to be held at the disposition of the invading possessors of executive power.

6. That no interruption of the economic life takes place and that in particular banks, trade, and industry continue to work.

7. That reticence be practiced in all media of public opinion, be it the press, theater, radio, or other public functions.

Troops which are found preparing defensive will be attacked *at once* and annihilated. Military planes which depart from their airfields will be attacked and shot down. Airfields preparing defensive measures will be bombed.

PROSECUTION EXHIBIT 3139[1]

EXTRACT FROM THE TESTIMONY OF FIELD MARSHAL KEITEL BEFORE THE INTERNATIONAL MILITARY TRIBUNAL, 5 APRIL 1946, CONCERNING THE INITIAL INVASION OF CZECHOSLOVAKIA ON 14 MARCH 1939[2]

CROSS-EXAMINATION

* * * * * * *

GENERAL RUDENKO: By whom and for what reason was the order issued to occupy Moravska Ostrava and Vitkovice by German troops, on 14 March 1939, in the afternoon, while President Hacha was still on the way to Berlin for negotiations with Hitler?

KEITEL: The order was eventually released and decided by the

[1] This exhibit did not receive a document number, apparently because it was taken from the transcript of the trial before the IMT.

[2] Trial of the Major War Criminals *op. cit.*, volume X, page 603.

Fuehrer. There had been preparations to occupy by a *coup de main* that area where the well-known big and modern steel works were located near Moravska Ostrava [Maehrisch Ostrau]—I cannot remember the name now—before the date of the march into Czechoslovakia as originally set. As a justification for that decision, Hitler had told me that it was done in order to prevent the Poles from making a surprise attack from the north, and thereby perhaps taking possession of the most modern rolling mill in the world. This he gave as a reason and the operation, that is the occupation, actually took place in the late hours of 14 March.

GENERAL RUDENKO: Yes. But during the same time, President Hacha was on the way to Berlin to negotiate with Hitler?

KEITEL: Yes. That is correct.

GENERAL RUDENKO: This is treachery!

KEITEL: I do not believe that I need to add my judgment to the facts. It is true that the occupation was carried out on that evening. I have given the reasons and President Hacha learned about it only after he arrived in Berlin.

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PARTIAL TRANSLATION OF DOCUMENT NG-3956[1] PROSECUTION EXHIBIT 118

MEMORANDUM OF VON NOSTITZ,[2] 15 MARCH 1939, CONCERNING THE PROGRESS OF THE EARLY MILITARY OCCUPATION OF CZECHOSLOVAKIA

Berlin, 15 March 1939

Report from the High Command of the Armed Forces, 0935

Advance begun according to plan.

29th Motorized Division (Army Group 3) has reached Oberpreussnitz (10 km. northwest of Koeniginhof).

No resistance.

Signed: VON NOSTITZ

Distribution:

Office of the Foreign Minister

State Secretary [the defendant von Weizsaecker]

State Secretary Keppler

Under State Secretary [the defendant Woermann]

[1] This document was found in one of the files of the office of State Secretary Keppler, marked "Buero St. S. Keppler." Other parts of this document, which contained several separate parts, are reproduced elsewhere in this section.

[2] Gottfried von Nostitz-Drzewiecki was an official of Dept. Pol. I–M (Political Division, Military Liaison Sect.) at this time. Von Nostitz appeared as a defense affiant in this case. (*English tr. p. 18422–18443.*)

Dirigent Political Division
Legation Counsellor Altenburg
Pol. IV b [Political Division IV–B]

TRANSLATION OF DOCUMENT NG–2937
PROSECUTION EXHIBIT 125

CORRESPONDENCE BETWEEN DEFENDANT KEPPLER AND HIMMLER, 15 AND 28 MARCH 1939, CONCERNING THE TASKS ASSIGNED TO THE SS PRIOR TO GERMANY'S OCCUPATION OF CZECHOSLOVAKIA AND RELATED MATTERS

1. Letter of Defendant Keppler to Himmler, 15 March 1939, Recommending the Promotion of Defendant Veesenmayer and SS Major Goetsch

Wilhelm Keppler [Stamp]
State Secretary for Special Duties at the Foreign Office
Personal Staff Reichsfuehrer SS
Archives
Ref. No. Secr. 347
Berlin W 8, 15 March 1939
Wilhelmstrasse 74–76
Telephone: 11 00 13

To Reichsfuehrer SS Himmler
Berlin–SW 11, Prinz Albrecht-Str. 8

Dear Himmler!

A few days ago I talked to you [Dir] briefly by telephone, about the extraordinary difficulties that had to be overcome in carrying out the task assigned to the SS on the occasion of the incorporation [Anschluss] of Czechoslovakia. Unfortunately, this resulted temporarily in serious complaints being made—even to the Fuehrer—especially against Standartenfuehrer [SS Colonel] Dr. Veesenmayer and Sturmbannfuehrer [SS Major] Goetsch apart from the numerous telegrams and letters concerning myself. For my part, I naturally tried to contact Ribbentrop and the Fuehrer in order to repel the attacks, and due to Ribbentrop's help, I definitely hope that the Fuehrer no longer has any doubts as to the justification of the complaints.

[Margin is covered with shorthand notes.]

When, last night, after the conclusion of the agreement, we were together with the Fuehrer, the Fuehrer remembered particularly the men, who staking their lives, had carried out the most dangerous work at the front. Thereupon Ribbentrop stated that

the whole of this work had been done in an exemplary manner exclusively by the SS, particularly Dr. Veesenmayer and Goetsch.

May I therefore submit the request that a promotion of these two men be considered? I am sure that the Fuehrer himself would be very pleased.

I should like very much to talk to you personally about my desire to speak to Seyss.

I was greatly pleased and gratified to have been able to take part personally in the historically important event of the last negotiations and ratifications.

Heil Hitler!

Yours [Dein]

[Signed] KEPPLER

[Stamp]

Personal staff

RF SS Enclosures

Received 17 March 1939 [Illegible initials]

Diary No. AK/633

To KF

2. Letter from Himmler to Defendant Keppler, 28 March 1939

Diary No. AR/633 28 March 1939

RF/Hoe

Gruppenfuehrer-SS [SS Major General]

Wilhelm Keppler

Berlin—W 8, Wilhelmstrasse 74–76

Dear Keppler,

I received your [Dein] letter dated 15 March 1939. Much as I appreciate the achievements of Veesenmayer, Goetsch, and Naujocks, I still cannot agree at this time to the suggestion of a promotion. Naujocks and Goetsch as well as the Student Leader Meckel are allowed to make a 3 months' trip to Japan, upon the invitation of the Reich Foreign Minister to whom I submitted this suggestion.

I am very willing to do something for Veesenmayer, which would be a source of joy and distinction. But I consider it as absolutely wrong to promote him to the rank of Oberfuehrer [SS Senior Colonel] at this time. Neither can I promote Goetsch and Naujocks who, at the age of 28, are Sturmbannfuehrer [SS Major] and consequently have attained a tremendously important position for their age.

I consider your intervention for these men as a sign of extraordinarily good comradeship.

933764O—51——58

I would like to state once more in writing that this time again, you have carried out your very difficult tasks for the Fuehrer under very difficult circumstances and in a very clear and courageous manner.

I need not assure you that also in the future I shall be glad to permit the employ of SS men for such tasks under your guidance.

Very cordially.

Heil Hitler!

Yours [Dein]

[Initials] HH [HEINRICH HIMMLER]

TRANSLATION OF DOCUMENT NG–4800
PROSECUTION EXHIBIT 3537

REPORT OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, THE DEFENDANT WOERMANN AND OTHERS, 15 MARCH 1939, CONCERNING VON WEIZSAECKER'S DISCUSSION WITH M. COULONDRE ON THE OCCASION OF THE FRENCH AMBASSADOR'S CALLING TO MAKE REPRESENTATIONS WITH RESPECT TO GERMANY'S MILITARY ACTION IN CZECHOSLOVAKIA

No. 217

Berlin, 15 March 1939

[Stamp]

Foreign Office

Pol IV 1944

Received: 22 March 1939

Encl. (fold)

Duplicates

The French Ambassador called on me at noon today. At first he read to me an instruction, which he had received from Paris already yesterday and which roughly said the following concerning the Czechoslovak question.

[Handwritten] to be filed. [Initial] A. [Altenburg]
[Initial] R. [von Rintelen] 15 March

The Munich Agreement had been regarded in France as an element of peace, as a decisive step in the German-French relations, and as the beginning of German-French collaboration. The instruction then touches upon the Guarantee-Annex of the Munich Agreement, passes over to the Consultation Agreement of 6 December last, and draws a comparison with the German action against Czechoslovakia (that is the march into Moravia, in the region of Moravska Ostrava, in the afternoon of the 14th). From this the instruction infers a serious concern as to Ger-

many's attitude towards the rest of Europe. In other respects, the Paris instruction demands of the Ambassador an information on the proceedings in German official quarters.

Pol. II* [Illegible initials].

Of his own accord the Ambassador added with a certain emotion, how much he was impressed by the entry into Czechoslovakia of our troops in contradiction to the Munich Agreement, in contrast to the cordial relations which he had expected to find here, and to the aims which he had set for himself for his mission here.

Finally, the Ambassador declared that he must make all reservations as to the further attitude of his government.

I treated the Ambassador from the beginning in a rather harsh manner, told him that he should not talk about the Munich Agreement as allegedly violated by us, and abstain from giving us any lessons. Munich had contained two elements, namely, the preservation of peace and the French disinterest [Desinteressement] in eastern questions. France should, after all, turn her eye towards the west upon her Empire [nach westen auf sein Imperium] and stop talking about things where her participation, as we know from experience, does not promote peace.

I then tried to make clear to the Ambassador the events of the last weeks in Czechoslovakia and told him that Germany had been forced to establish order in Czechoslovakia on her own initiative if the Czechoslovakian State President had not desired to call on the Fuehrer and made the journey to Berlin. Should the Ambassador and the French public read the agreement concluded on the morning of the 15th, they would realize that this was a necessary action but also one agreed upon with the Czechoslovak Government, regarding which any legal viewpoints derived from former agreements were irrelevant. I said finally I could see no reason for the French Ambassador to make any *démarche* other than of a purely informative character.

The Ambassador then came back to the premature entry of German troops into Moravia. I skipped over this matter and then adopted a more trustful tone, saying that I was sure that the Ambassador, upon his return to the Embassy, in view of last night's agreement, would find there new instructions from Paris which would set him at rest. It was not worthwhile to exaggerate this matter. Our common task, on the contrary, was, as far as possible, not to allow the German-French relationship to be affected by it.

The discussion had partly a somewhat more vivid [lebhaft] character. However, outwardly, Coulondre had himself under control.

Signed: WEIZSAECKER

* Political Division II was concerned with western Europe.

[To:]

To the Reich Foreign Minister
Under State Secretary [the defendant Woermann]
Deputy Chief Political Division
Chief Legal Division
Minister Aschmann

TRANSLATION OF KEPPLER DOCUMENT 205
KEPPLER EXHIBIT 124

FOOTNOTE IN THE GERMAN PUBLICATION "DOCUMENTS OF GERMAN POLITICS,"[1] REPORTING A TELEGRAM FROM PRIME MINISTER TISO OF SLOVAKIA TO GOERING, 15 MARCH 1939, SUBMITTING SLOVAKIA TO HITLER'S PROTECTION

Telegram of the Fuehrer to Slovakian Prime Minister Dr. Tiso, dated 16 March 1939[2]

* * * * * * *

Dr. Tiso, elected Prime Minister [Ministerpraesident] by the Slovak Diet on 14 March, who, in the afternoon of the 13th, together with Minister Dr. Durcansky, had been received by the Fuehrer in the New Reich Chancellery in Berlin "for a discussion concerning acute problems," sent the following telegram to Field Marshal Goering on the 15th, as the Fuehrer was not in Berlin at that time:

"May I ask you to forward the following to the Fuehrer and Reich Chancellor:

"In full confidence to you, the Fuehrer and Reich Chancellor of the Great German Reich, the Slovak State submits itself to your protection.

"The Slovak State asks you to take over this protection.

Signed: TISO"

[1] This defense document was taken from page 9, volume VII, "Dokumente der Deutschen Politik," Berlin, Junker und Duennhaupt, 1940. The document, as offered in evidence by the defense, is reproduced here in full.

[2] The text of the Hitler-Tiso telegram was not a part of the document offered in evidence by the defense. The text of this telegram reads: "I acknowledge receipt of your telegram of yesterday and hereby assume protection of the Slovak State. Signed: Adolf Hitler." The text of the document as offered by the defense and as reproduced herein, was taken from a footnote to the editorial title of the Hitler-Tiso telegram as reproduced in "Dokumente der Deutschen Politik."

TRANSLATION OF DOCUMENT NG-3906
PROSECUTION EXHIBIT 3538

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN AND OTHERS, 18 MARCH 1939, CONCERNING VON WEIZSAECKER'S TELEPHONE CONVERSATION WITH THE BRITISH AMBASSADOR

Berlin, 18 March 1939

State Secretary No. 241

This afternoon at 1430 hours, I informed the British Ambassador by telephone as follows: after the French Ambassador had called on me and I had been informed by him—Henderson—that he had been ordered to take steps similar to those the French had taken, I thought it necessary to say that a personal discussion would be of no use. It would be best if he omitted altogether to send us a note. Henderson stated that he was compelled to send us a note. He had been expressly instructed by his government to do so. I replied that if he had to do it, it would be better if he did it in writing.

Signed: WEIZSAECKER

Reich Foreign Minister
Under State Secretary [the defendant Woermann]
Deputy Director Political Division
Minister Aschmann

PARTIAL TRANSLATION OF DOCUMENT NG-3956*
PROSECUTION EXHIBIT 118

MEMORANDUM FROM THE FILES OF DEFENDANT KEPPLER'S OFFICE, 9 AUGUST 1939, CONTAINING A CALENDAR OF IMPORTANT EVENTS IN CONNECTION WITH THE DECLARATION OF SLOVAK INDEPENDENCE AND THE REQUEST FOR GERMAN PROTECTION BY SLOVAKIA

Berlin, 9 August 1939

12 February 1939

Professor Tuka is received by the Fuehrer.

1 March 1939

Dr. Durcansky is received by the Reich Foreign Minister.

7 March 1939

Tuka, Durcansky and a few other Slovakian gentlemen are received by Field Marshal Goering (Keppler present).

* The other parts of this document, which contained several items, are reproduced elsewhere in this section.

10 March 1939

Report from Bratislava about the discharge [Absetzung] of Tiso by Prague and appointment of Sidor.

11 March 1939

In the evening, Keppler is sent to Vienna and Bratislava regarding negotiations with Sidor; these seem at once hopeless.

In the night of 12–13 March 1939, Tiso is visited in lower Slovakia; he decides to fly to Berlin. About 1 o'clock he left Vienna; toward evening received by Fuehrer. Until 2 a.m. conferences concerning the declaration of independence of Slovakia in the sessions of the Landtag and request for German protection.

14 March 1939

The Landtag meets; independence of Slovakia is declared. The projected telegram to Fuehrer concerning protection is not decided on.

16 March 1939

Request for German protection follows. To the best of my remembrance it came through Field Marshal Goering.

18 March 1939

Conferences in Vienna with Tuka and Durcansky concerning the completion [Abschluss] of the agreement for protection. In evening the signing took place, by Tuka and Durcansky.

Certain reflections and difficulties arose. The definitive signing followed in Berlin on 23 March 1939.

TRANSLATION OF DOCUMENT NG–4844
PROSECUTION EXHIBIT 3532[1]

CODED TELEGRAM FROM DEFENDANT WOERMANN TO THE GERMAN EMBASSIES IN LONDON, PARIS, AND ROME, 15 MARCH 1939, CONCERNING DEFENDANT VON WEIZSAECKER'S DISCUSSION WITH SIR NEVILE HENDERSON ON THE OCCASION OF THE BRITISH AMBASSADOR'S MAKING INQUIRIES ABOUT THE CZECHOSLOVAK SITUATION ON 14 MARCH 1939

Without previous files.

Berlin, 15 March 1939 — To Pol. IV 1702/I 15 March 1939

To—

German Embassy, London No. 65
German Embassy, Paris No. 109
German Embassy, Rome No. 108

Under State Secretary
Telegram in figures
(Secret Code)

[Handwritten] (yellow sheet) Ra/Ni. Referent: Senior Councillor of Legation von Rintelen.

For your information

The British Ambassador called on the State Secretary on Tuesday morning [14 March 1939][2] in order to inquire as to our opinion on the Czechoslovakian question. Henderson stated that he neither wanted to make a *démarche* nor to create the impression that his government intended to interfere in this matter. The preponderant German interest in Czechoslovakia was an established fact, he said. The British Press had also shown the greatest reserve. But it would be fatal if the imminent visit of the Minister for Commercial Policy [politischen Handelsminister], Stanley,[3] (which was meanwhile cancelled today), would coincide with aggressive measures of the Reich against Czechoslovakia.

[Handwritten] Information on Henderson's letter to the Reich Minister to follow.

The State Secretary expounded to the Ambassador our complaints about incidents in Czechoslovakia and explained to him that the Tiso government was the only legal one.

[Handwritten] forwarded to teletype room 1:45 hours on 16 March. Czechoslovakia copy to Po 2, Po 3. [Illegible handwriting].

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[1] This exhibit included two separately registered documents, Document NG–4844 and Document NG–4842, the latter document appearing immediately below.

[2] In Weizsaecker Document 37, Weizsaecker Defense Exhibit 82, reproduced below in this section, this date is listed as "Monday morning" (13 Mar. 1939). Further information on the Henderson call on von Weizsaecker is contained in testimony of von Weizsaecker reproduced below, section VI D.

[3] Reference is apparently to Oliver Stanley, at that time president of the Board of Trade.

Upon inquiry, the State Secretary admitted that Tiso presumably intended to proclaim the independence of Slovakia. Germany did not raise remonstrations in Prague so far, but we had the most urgent interest in this area of central Europe. To the question of Henderson whether we wanted to dismember or to maintain Czechoslovakia, the State Secretary answered that we were only interested in the establishment of order. Henderson then advocated the establishment of direct contacts between Germany and Czechoslovakia whereupon the State Secretary replied that we, too, were interested in realizing legitimate German claims in a decent manner. When Henderson mentioned the Munich Agreement the State Secretary remarked that the Munich Agreement aimed at and achieved the maintenance of peace and for the rest was already a matter of the past. Henderson concluded with the repeated recognition of the preponderant German interests in the Czech area.

WOERMANN

[Initial] Wo. [WOERMANN] 15 [March]
[Initial] B. [VON BISMARCK] 15 [March]
[Initial] R. [VON RINTELEN] 15 March

TRANSLATION OF DOCUMENT NG–4842
PROSECUTION EXHIBIT 3532

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO DEFENDANT WOERMANN AND OTHERS, 17 MARCH 1939, GIVING HIS VIEWS ON STATEMENTS IN THE LONDON TIMES THAT THE GERMAN FOREIGN OFFICE HAD ASSURED THE BRITISH AND FRENCH AMBASSADORS THAT GERMANY WOULD TAKE NO DRASTIC STEPS IN CZECHOSLOVAKIA

[Stamp] Foreign Office

Pol. IV 1789
Received: 18 March 1939
Attached (-fold) Duplicate
of this receipt

State Secretary No. 231 Berlin, 17 March 1939

According to the English Press (among others the diplomatic correspondent of "The Times" of 16 March) the British and the French Ambassadors had received assurance in the Foreign Office last Tuesday afternoon [14 March 1939] that Germany by no means would proceed to any drastic steps. This assurance had been given at a moment when German troops had already crossed the Czech border.

The facts, however, are that the French Ambassador had not at all inquired at the Foreign Office on the day in question but rather on Wednesday [15 March 1939]. The British Ambassador was at 12 o'clock noon [on 14 March 1939] with the State Secretary ["with the State Secretary" inserted in handwriting and "with me" crossed out], that is 5 hours before the first troops marched over the Czech border. The British Ambassador has also merely been told that we would attempt to realize our demands in a decent manner, whereby upon a remark [Andeutung] by Henderson, the State Secretary ["the State Secretary" inserted in handwriting and "I" crossed out] slipped in a remark to the effect that a military invasion [ein Truppeneinmarsch] could also take place in a decent manner.

(Signed) WEIZSAECKER

To—

Under State Secretary (I leave it to you to transmit this supplement also to von Dirksen)
Deputy Chief Political Division
Senior Legation Councillor von Rintelen
Minister Aschmann

[Initial] R [VON RINTELEN]
17 March

WEIZSAECKER DOCUMENT 38
WEIZSAECKER DEFENSE EXHIBIT 83

EXTRACT FROM AMBASSADOR HENDERSON'S BOOK, "FAILURE OF A MISSION," CONCERNING HIS CONVERSATIONS WITH DEFENDANT VON WEIZSAECKER BEFORE THE OCCUPATION OF CZECHOSLOVAKIA*

Act III. The Occupation of Prague

* * * * * * *

Nothing but the direct and immediate threat of war would have stopped Hitler at that stage. The Czech Government was alone in a position to save itself by its action. After my conversation with Weizsaecker, I accordingly saw the Czech Minister and once again urged him, since he himself was no longer in touch with the German Foreign Office, to propose to his own Foreign Minister, Chvalkovsky, who was known to favor cooperation with Germany, an immediate visit to Berlin. In my view such direct contact could alone save the situation * * *.

* * * * * * *

* The extract reproduced herein contains all the material from Henderson's book which was offered as a part of this exhibit. The extract is from chapter IX, page 213.

EXTRACTS FROM AMBASSADOR HENDERSON'S BOOK, "FAILURE OF A MISSION," ON HIS CONVERSATIONS WITH DEFENDANT VON WEIZSAECKER CONCERNING CZECHOSLOVAKIA[1]

Act III. The Occupation of Prague

* * * * * * *

I went to the Ministry for Foreign Affairs on the Monday morning [13 March 1939],[2] and saw the State Secretary and adjured him to see that nothing was done to violate the Munich Agreement or to upset the Stanley-Hudson visit. I found Weizsaecker completely noncommittal, and all that he could assure me was that whatever was done would be done in a "decent" manner. He repeated that phrase more than once.

* * * * * * *

* * *. yet I cannot blame Weizsaecker. Hitler had taken his decision on the preceding afternoon and that was the end of the matter. Weizsaecker could not have told me less but he equally could not tell me more.

* * * * * * *

I tried to comfort myself with the State Secretary's assurance about "decency." Weizsaecker was an honorable man; and I had forcibly impressed upon him the reactions which would be inevitably produced in England if the German Government acted in any respect contrary to the Munich Agreement or did anything of a nature to upset the arrangements for the Stanley visit, which was to take place at the end of the week and for which all the invitations had already been issued. But I was not reassured. When I had spoken in the strongest terms against the use of troops, Weizsaecker had protested that the behavior of the German Army was always "decent."

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[1] The extracts reproduced herein contain all the extracts from Henderson's book which were offered as a part of this exhibit. The extracts are taken from chapter IX, pages 211–213.

[2] In Document NG–4844, Prosecution Exhibit 3532, reproduced above in this section, this date is listed as "Tuesday morning" (14 March). Further information on the Henderson call on von Weizsaecker is contained in testimony of von Weizsaecker reproduced later in this section.

DOCUMENT TC–51
PROSECUTION EXHIBIT 126

TELEGRAM FROM SIR NEVILE HENDERSON TO VISCOUNT HALIFAX, 16 MARCH 1939, CONTAINING THE DECREE OF 16 MARCH 1939 BY WHICH BOHEMIA AND MORAVIA WERE INCORPORATED INTO THE GREATER GERMAN REICH*

Telegram in clear Berlin, 16 March 1939

My telegram No. 120

Following is the text of a decree, dated 16 March, issued by Herr Hitler regulating the status of the Protectorate of Bohemia and Moravia—

"For ten centuries the Bohemian-Moravian lands belonged to the living space of the German people. Force and lack of understanding arbitrarily tore them from their old historical surroundings and finally created a source of permanent unrest by incorporating them within the artificial edifice of Czechoslovakia. From year to year the danger that a new, appalling menace to European peace would emanate, as had happened once before in the past, from this living space, increased. For the Czechoslovak State, and those in power there, had not succeeded in properly organising the existence side by side of the national groups arbitrarily united within its boundaries, and had thereby failed to awaken the interest of all concerned in the maintenance of their common State. It has thereby proved its inmost incapacity to exist and has for this reason now also fallen into actual dissolution.

"The German Reich, however, cannot tolerate permanent disturbances in these territories that are so all-important to its own peace and security and also so important to the general well-being and universal peace. Sooner or later the Reich, as the power most interested and affected, by history and geographical position, would have to suffer the most serious consequences. Self-preservation, therefore, requires that the German Reich should be determined to intervene decisively in favour of the restoration of a basis for a reasonable Central European order and should take the requisite measures. For it has already proved in the course of its historical past of a thousand years that it alone, thanks to its greatness and to the qualities of the German people, is called upon to solve these tasks.

* This document was introduced in the IMT trial as Exhibit GB–8. The citation to the official German Law Gazette is 1939 Reichsgesetzblatt, part I, page 485. A photostatic copy of the decree as it appeared in the Reichsgesetzblatt was also included in this exhibit.

"Filled with the earnest desire to serve the true interests of the peoples domiciled in this living space, to guarantee the individual national life of the German and of the Czech peoples, to benefit peace and the social welfare of all, I therefore decree the following, in the name of the German Reich, as the basis for the future existence in common of the inhabitants of these territories—

"Article I

"1. The territories which formed part of the former Czecho-Slovak Republic and which were occupied by German troops in March 1939 belong henceforth to the territory of the German Reich and come under the latter's protection as the 'Protectorate of Bohemia and Moravia'.

"2. Insofar as the defence of the Reich demands, the Leader and Chancellor shall take measures differing from the above in respect of individual parts of these areas.

"Article II

"1. Inhabitants of the protectorate of German race shall become German nationals and German citizens in accordance with the provisions of the Reich Citizenship Law of 15 September 1935 (Reichsgesetzblatt I, Ts. 1146). The provisions with regard to safeguarding German blood and German honour shall therefore also apply to them. They shall be subject to German jurisdiction.

"2. The remaining inhabitants of Bohemia and Moravia shall be nationals of the Protectorate of Bohemia and Moravia.

"Article III

"1. The Protectorate of Bohemia and Moravia is autonomous and self-administering.

"2. It shall exercise its sovereign rights within the scope of the protectorate in consonance with the political, military and economic importance of the Reich.

"3. These sovereign rights shall be represented by its own organs, authorities and officials.

"Article IV

"The head of the autonomous administration of the Protectorate of Bohemia and Moravia shall enjoy the guard and honours of the head of a State. The head of the protectorate must possess, in order to exercise his functions, the confidence of the Leader and Chancellor of the Reich.

"Article V

"1. As trustee of Reich interests the Leader and Chancellor of the Reich shall nominate a 'Reich Protector in Bohemia and Moravia'. His seat of office will be Prague.

"2. The Reich Protector, as representative of the Leader and Chancellor of the Reich and as Commissioner of the Reich Government, is charged with duty of seeing to the observance of the political principles laid down by the Leader and Chancellor of the Reich.

"3. The members of the government of the protectorate shall be confirmed by the Reich Protector. The confirmation may be withdrawn.

"4. The Reich Protector is entitled to inform himself of all measures taken by the government of the protectorate and to give it advice. He can object to measures calculated to harm the Reich and, in case of danger, issue ordinances required for the common interest.

"5. The promulgation of laws, ordinances, and other legal announcements and the execution of administrative measures and legal judgments shall be annulled if the Reich Protector enters an objection.

"Article VI

"1. The foreign affairs of the protectorate, especially the protection of its nationals abroad, shall be taken over by the Reich. The Reich will conduct foreign affairs in accordance with the common interest.

"2. The protectorate shall have a representative accredited to the Reich government with the title of a 'minister.'

"Article VII

"1. The Reich shall accord military protection to the protectorate.

"2. In the exercise of this protection the Reich shall maintain garrisons and military establishments in the protectorate.

"3. For the maintenance of internal security and order the protectorate may form its own organisations. The composition, strength, numbers and arms shall be decided by the Reich government.

"Article VIII

"The Reich shall control directly the transport, post and telegraph systems.

"Article IX

"The protectorate shall belong to the customs area of the Reich and be subject to its customs sovereignty.

"Article X

"1. The crown is legal tender, together with the Reichsmark, until further notice.

"2. The Reich government shall fix the ratio of one to the other.

"Article XI

"1. The Reich can issue ordinances valid for the protectorate insofar as the common interest requires.

"2. Insofar as a common need exists, the Reich may take over branches of administration and create its own Reich authorities therefor as required.

"3. The Reich government may take measures for the maintenance of security and order.

"Article XII

"The law at present existing in Bohemia and Moravia shall remain in force so long as it does not conflict with the principle of the assumption of protection by the German Reich.

"Article XIII

"The Reich Minister of the Interior shall issue, in agreement with the other Ministers concerned, the administrative and legal regulations for the execution and amplification of this decree.

"Prague, 16 March 1939

"HITLER.
"FRICK.
"RIBBENTROP.
"LAMMERS."

TRANSLATION OF DOCUMENT KOERNER 383
KOERNER DEFENSE EXHIBIT 134

ORDINANCE CONCERNING THE AUTHORITY OF THE REICH PROTECTOR AND THE REICH MINISTER OF THE INTERIOR IN THE PROTECTORATE OF BOHEMIA AND MORAVIA, 22 MARCH 1939, SIGNED BY HITLER, FRICK, AND DEFENDANT LAMMERS

1939 REICHSGESETZBLATT, PART I, PAGE 549

Ordinance on the decree of the Fuehrer and Reich Chancellor concerning the Protectorate of Bohemia and Moravia, 22 March 1939*

I.

(1) The Reich Protector in Bohemia and Moravia is the sole representative of the Fuehrer and Reich Chancellor and the Reich government in the Protectorate.

(2) He is subordinated directly to the Fuehrer and Reich Chancellor and receives directives from him only.

II.

(1) The Central Office for the execution of the decree of the Fuehrer and Reich Chancellor with respect to the Protectorate of Bohemia and Moravia is the Reich Minister of the Interior.

(2) The highest Reich authorities have to secure the approval of the Central Office with respect to all measures which concern the Protectorate, in particular with regard to the issuing of legal regulations and organizational measures.

III.

(1) The Fuehrer and Reich Chancellor reserves for himself the right to issue implementation regulations with respect to article I.

(2) The Reich Minister of the Interior issues implementation regulations with respect to article II.

Berlin, 22 March 1939

The Fuehrer and Reich Chancellor
ADOLF HITLER
The Reich Minister of the Interior
FRICK
The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

* The decree to which this ordinance refers is the decree of 16 March 1939, reproduced immediately above.

TRANSLATION OF DOCUMENT NG-1817
PROSECUTION EXHIBIT 481

LETTER FROM DEFENDANT STUCKART TO DEFENDANT LAMMERS, 2 MAY 1939, REPORTING UPON SITUATION IN BOHEMIA AND MORAVIA AND REQUESTING INFORMATION AS TO HITLER'S PRESENT VIEWS CONCERNING AN ELECTION

Copy Berlin, 2 May 1939

Reich Minister Dr. Lammers

Berlin W 8

Dear Minister!

With reference to the short conversation at the meeting of the Kulturkammer [chamber for culture], I am sending you in the following a short report on the situation in the Protectorate, as I see it, especially according to the information I received from State Secretary Frank. State Secretary Frank, whose report is in accordance with other verbal and written information received by me, characterizes the situation as follows:

The mood in the Protectorate becomes worse and more unfriendly from day to day. The tension is increasing. The Czechs have recovered from the shock they received when they were being occupied and they are hoping for a change in their situation through events of a foreign political nature. Thus the rumor is spread in the Protectorate that Germany is being involved in grave foreign political conflicts; that was the reason that Germany had taken almost all her troops out of the Protectorate. She needs these troops at the Polish and French borders, where warlike clashes will occur. On 21 May, Benes was to enter victoriously into Prague, heading the Czech legions which at present are being formed in Poland, France, and America. These political rumors were being spread by a well-organized propaganda all over the Protectorate's territory, assisted by the foreign radio stations, especially by the Moscow station. It is generally striking that the number of copies of the Czech newspapers are dropping considerably. On the other hand a vast number of overhead aerials for the reception of foreign senders have been erected. The passive resistance of the Czech population is daily increasing through these political rumors. Everywhere clashes and brawls between a Czech mob and German soldiers and policemen were occurring. At Pilsen, in one day, 38 German soldiers and policemen are said to have been gravely wounded by hydrochloric acid. The Reich Protector had to decide to apply strictest measures. Rather extensive arrests were made. At the same time the order had been issued that in case of resistance arms should be used.

The German police at present still in the Protectorate (8 battalions), with respect to the tasks which they had to take over from the Wehrmacht which had been withdrawn, especially guarding of army supplies, were far too weak in order to provide sufficient security. The remaining troops, too, were too weak. The Czech would take any friendly treatment and any favors to be German weakness. It would be necessary constantly to show the armed power to the Czechs, then they would resign themselves to the actual facts. This, according to their character, would not provoke them, but it would calm them down.

At present the Benes followers are increasing again. The same is said of the new government. The bad influence in the government was above all Minister Havelka, the chief of the office of President Hacha. A short while ago, Havelka is said to have declared at a party that in his presence nobody was to say anything derogative about President Benes; that, same as before, he respects Benes as the President of the free Czechoslovakian Republic. State Secretary Frank calls the present Minister President of the Protectorate's government, General Elias, a quiet and prudent man. Elias was no legionnaire [Legionaer]* but a former Austrian officer and he belonged to the moderate group. Otherwise the government is composed of men of the system. The Czech parties of the right were not participating at all. Under these circumstances the new government of the Protectorate would not last long.

The mood of the population is being exploited by the foreign missions which are about to close down. Thus, the Polish delegation in Prague were giving assistance to Czechs who are leaving Czechoslovakia in order to enter the Czech legion which is being formed in Poland. The British delegation [Vertretung] had tried to recruit Czech officers for the British Army. Finally *State Secretary Frank remarked that he would urgently advise to desist from quickly holding new elections in the Protectorate.* A speedy carrying out of the elections could only lead to it, that all the world would clearly see how weak the racial German elements were in the Protectorate. But such an admission of weakness before the Czechs and before all the world would have a bad effect on the attitude of the Czechs. In the most favorable case one could count on 180,000 to 200,000 votes.

If, however, sufficient time would be available to carry out the elections, approximately 6 months, then a good shaking-up of the intermediate class [Zwischenschicht] could be effected, so that an essentially higher number of voters would exist. That would

* Apparently reference is to membership in the Czech Legion which was organized in Russia during World War I and declared war on Germany 13 August 1918.

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have the advantage that the Czechs, who were closely uniting and concentrating at present, would be dispersed again.

I would be very grateful, Herr Minister, if you would occasionally inform me whether the Fuehrer wants an early or later carrying out of the election in the Protectorate, and whether and what fixed political aims are to be pursued and achieved with this election.

With cordial greetings and

Heil Hitler!
Yours very obediently
Signed: STUCKART

PARTIAL TRANSLATION OF DOCUMENT R-133 PROSECUTION EXHIBIT 972

EXTRACT FROM REPORT OF A CONFERENCE OF GOERING, MILCH, DEFENDANT KOERNER, GENERAL THOMAS AND OTHERS ON 25 JULY 1939, NOTING GOERING'S STATEMENT THAT THE ECONOMY OF BOHEMIA AND MORAVIA WAS INCORPORATED INTO GERMAN ECONOMY IN ORDER TO INCREASE GERMANY'S WAR POTENTIAL*

Secret

Luftfahrt 1 — Berlin, 27 July 1939

Az 57 h LF 1 No. 3398/39 secret

Memorandum on a conference on 25 July 1939 with the Field Marshal in Westerland

[Illegible handwriting]

Present: General Milch
State Secretary Koerner
State Secretary Neumann
State Secretary Dr. Landfried
State Secretary von Burgsdorf
Senior Government Counsellor von Wedelstedt
Brigadier General Thomas
Lieutenant Colonel (General Staff) Huenermann
Colonel (General Staff) Ploch
Ministerialrat Mueller
Air Chief Staff Engineer Tschersich
Air Staff Engineer Diederichs
Lieutenant Colonel Conrad

* The entire report was received in evidence in the trial before the IMT as USA Exhibit 24. The German text is reproduced in Trial of the Major War Criminals, volume XXXVIII, pages 367-370. Further documents with respect to Germany's economic policy in Czechoslovakia are reproduced in volume XIII, section X B.

1. In a rather long statement, the Field Marshal explained that the incorporation of Bohemia and Moravia into the German economy [deutschen Wirtschaftsraum] had taken place, among other reasons, to increase the German war potential [Kriegspotential] by exploitation of the industry there.

Letters such as the decree of the Reich Minister for Economics —S 10 402/39 of 10 July 1939—as well as a letter with similar meaning to the Junkers firm, which might possibly lower the kind and extent of the armament measures in the Protectorate, are contrary to this principle. If it is necessary to issue such directives, this should be done only with his consent. In any case he insists, in agreement with the directive by Hitler, that the war potential of the Protectorate is definitely to be exploited in part or in full and is to be directed towards mobilization [Mobfall] as soon as possible.

* * * * * * *

[Signed] MUELLER

PARTIAL TRANSLATION OF DOCUMENT NG-3004 PROSECUTION EXHIBIT 2565[1]

LETTER FROM DEFENDANT KEPPLER TO SS REICH HEADQUARTERS, 23 JANUARY 1942, RECOMMENDING DEFENDANT VEESENMAYER FOR PROMOTION IN THE SS AND MENTIONING HIS SERVICES IN CONNECTION WITH PREPARATIONS FOR THE MARCH INTO BOHEMIA AND SLOVAKIA

Berlin W 8, 23 January 1942
Wilhelmstr. 74–76
Telephone: 110013

Wilhelm Keppler, State Secretary for Special Assignment in the Foreign Office, SS-Gruppenfuehrer

[Stamp] SS Personnel Main Office
26 January 1942
[Illegible initials]

To the Reichsfuehrung SS [Reich Headquarters SS]
Chief of the SS Personnel Main Office

Berlin SW 11
Prinz Albrechtstr. 9

Subject: Your letter of 22 January 1942

Section I A 2, Ka/Sch.—Promotion

I should be very glad if the intended promotion of SS Standartenfuehrer Party Member Dr. Edmund Veesenmayer to the rank of SS Oberfuehrer could take place. I requested this promotion already in 1939,[2] since Dr. Veesenmayer, by his constant preparedness and tenacity, did outstanding service in the preparation of the entry of our troops into Bohemia and Slovakia [Einmarsch in die Tschechei und Slovakei]. Unfortunately my request was at that time refused.

Heil Hitler!
[Signed] KEPPLER

[1] Due to an oversight this document was also introduced as Prosecution Exhibit 2666. The entire document contained the SS personnel file on the defendant Veesenmayer and was composed of many items concerning his status in the SS.

[2] The 1939 letter of recommendation is reproduced earlier in this section as a part of Document NG–2937, Prosecution Exhibit 125.

TRANSLATION OF DOCUMENT NG–2068
PROSECUTION EXHIBIT 1557

FUEHRER REPORT OF DEPUTY REICH PROTECTOR OF BOHEMIA-MORAVIA TO DEFENDANT LAMMERS CONCERNING THE PERIOD OF MAY TO 1 SEPTEMBER 1942, AND LETTER OF LAMMERS TO SS GENERAL DALUEGE, 15 SEPTEMBER 1942, ACKNOWLEDGING RECEIPT OF THE REPORT AND STATING HIS INTENTION OF SUBMITTING ONE COPY TO HITLER

Protectorate Bohemia and Moravia

Fuehrer Report for the period of May till 1 September 1942

After the lifting of the civil state of emergency imposed [zivilen Ausnahmezustand] in the Protectorate of Bohemia and Moravia on 3 July 1942, after the attack on SS Lieutenant General Reinhard Heydrich, the majority of the Czech population has been pacified to a great extent. The measures taken during the civil state of emergency:

1. Arrest of 3188 Czechs.

2. Shooting of 1357 Czechs after death sentences pronounced by the courts martial Prague and Brno.

3. Liquidation [Vertilgung] of the two Czech villages Lidice (95 houses), Lezaky (8 houses).

4. Reception of President Hacha and the entire autonomous government by the Fuehrer in accordance with the act of state in Berlin, with its strongest political results on the government and population.

5. Numerous meetings and demonstrations by the Protectorate government throughout the entire Protectorate (covers approximately 1½ million people).

6. Securing of the perpetrators and death of the attackers after a hard fight, reinstated law and order within a short period, and guaranteed the armament quota and the harvest in the Protectorate. (No drop in production.)

The continuation of the policy hitherto adopted,—severe treatment, the individual political measures, the frame of mind we have artificially produced, and the intentionally applied nervous tension [Nervenmuehle] of the Czechs, stimulated an increase of fear until rumours of an intended decimation of the entire nation were spread—proved correct.

In the last weeks a strong indifference to all political events has appeared in the Czech population which could scarcely be influenced by the German victories. In Prague and in the provinces very great indifference was already noticeable at the birthday ceremony for Hacha. Since Churchill's journey, and the at-

tempted invasion of Dieppe, repeated signs for the return of the self-assured attitude of the Czechs are to be recognized, and a distinct strengthening of the spirit of resistance amongst part of the Czechs is noticeable. From the destructive intellectual class—fortified by the enemy radio—an intensive whispering propaganda is growing anew about crisis conditions, mass desertions, attacks and acts of sabotage as well as war weariness inside Germany itself. The watchwords of the destructive intelligentsia are—

> "The Soviet war and armament potential (unlimited industrial centres in the Ural and Siberia) as well as those of England and America cannot be broken, the second front will definitely come soon, the English-American air raids on German cities are destroying the entire German war industry, and the continuously increasing food problems in Germany itself will definitely lead to famine and revolution. All these circumstances will force the Reich onto its knees in the coming winter."

A large number of the farmers and laborers mainly face financial and food problems, the bourgeoisie is interested only in vacations and summer holidays.

The grain harvest in the Protectorate is good, and 19/20ths has been gathered. The new regulations of the Reich Marshal concerning the delivery quota of the Protectorate to the Reich, that is to say—250,000 tons wheat, 10,000 tons fodder, and 155,000 tons sugar—*can only be realized* if the rations at present allowed in the Protectorate are considerably reduced. This again would contradict the decision of the Fuehrer of September 1941, according to which the same rations as in the Reich should be given to approximately 2 million laborers in Bohemia and Moravia, to preserve peace and order for the maximum production in the armament industry working for Germany. A reduction of the food rations, in view of the planned increase of the meat and bread ration in the Reich, would have almost catastrophic results and would have severe consequences both politically and in the armament industry. Therefore a new Fuehrer decision is necessary and that is the reason why I am asking for an interview with the Fuehrer for myself and my State Secretary.

The questions of youth education which were raised in the first curricula of the "Youth Governing Body" brought to public notice under Minister Moravec were treated with great interest, partly with intense feeling by the Czech population. The restricting measures carried out in the high schools were severely criticized and, according to the inciting broadcasts from London, were interpreted by the intelligentsia in a hostile way for Germany.

A short report on the administrative reform, which is being carried out now, is enclosed.

The recognition of the suitability for drafting of the Czech people and the timely problems in connection with it—

a. Acceptance of the Czechs into the Reich Labor Service [Reichsarbeitsdienst].

b. Formation of Czech Police Battalions under German command for the purpose of their assignment to certain war tasks.

c. Assignment of Czech service personnel [Bedienungs personal] trained in antiaircraft installations at Skoda and Bruenner Munitions works, in the event of air raids on these works,

as well as the introduction of the German greeting, with the Czechs at least, require a Fuehrer decision.

Please arrange for an appointment with the Fuehrer for myself and my State Secretary to discuss this matter.

[Illegible initial]

The Reich Minister and Chief of the Reich Chancellery
Berlin W 8, 15 September 1942
Voss Strasse 6

[Stamp] Top Secret

Rk. 681 A Top Secret

[Handwritten:] State Secretary FRANK
18 September
[Initial] F
19 September

To the Deputy of the Reich Protector in Bohemia and Moravia,
SS General and General of the Police, Daluege *in Prague*

Dear General:

I gratefully confirm the receipt of the Protectorate report for the period May to August 1942. I have read the report with great interest and will submit one copy of the report to the Fuehrer at the earliest opportunity.

Heil Hitler!
Your obedient servant
[Signed] DR. LAMMERS

[Illegible initial]

To the files, /c 22/September

EXTRACTS FROM THE TESTIMONY OF THE PROSECUTION WITNESS MILADA RADLOVA*

DIRECT EXAMINATION

MR. CAMING: Mrs. Radlova, will you kindly tell the Court your full name?

WITNESS RADLOVA: Mida Radlova nee Hacha.

Q. And your present age?

A. Forty-five years.

Q. And your present address?

A. Prague 7, Vinarska 12.

Q. Mrs. Radlova, what has been your relationship to the late President Hacha of Czechoslovakia?

A. I am the daughter of the former President, Dr. Hacha.

Q. When did your father become President of Czechoslovakia?

A. 30 November 1938.

Q. Thank you. What was his former profession before becoming President?

A. He was presiding judge of the Supreme Administrative Court.

Q. Had your father any political affiliations or connections with political parties prior to the Presidency?

A. My father has never been a politician. He had no interest in politics, and if possible he kept away from politics.

Q. In other words, upon his assumption of the Presidency, he was more or less acting as a nonpolitical figure?

A. Yes. He always acted only as a nonpolitical person.

Q. What was his age, Mrs. Radlova, at the time he assumed the Presidency?

A. He was 66 years old.

Q. And his health at that time?

A. He was not entirely well.

* * * * * * *

Q. During the time between December 1938 when your father became President and 15 March 1939, had your father ever mentioned being concerned about the psychological warfare being waged by Germany on the radio against Czechoslovakia?

A. Yes. I heard about it. My father talked in my presence about it to some officials of his Chancellery.

Q. And what can you remember of his conversations?

A. I know that he got excited about untrue reports from Germany that we at home tortured Germans, oppressed them, and killed them.

Q. Were those reports, to the best of your knowledge, considered by your father to be false or true?

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* Complete testimony is recorded in mimeographed transcript, 12 January 1948, pages 517–539.

A. These reports were untrue. They were lies.

Q. Is that to your knowledge also?

A. Yes.

Q. Directing your attention to early March 1939, do you recall a visit by Dr. Havelka to your father at your home and the ensuing conversation?

A. Yes. I remember that Dr. Havelka came to the home of my father and that he talked to my father about the fact that Dr. Masarik, one of the Czech diplomats, was sent to Berlin to ascertain the political situation. He wanted to pay a visit to Weizsaecker. He didn't receive him and told him through one of his aides that Czechoslovakia was not an international partner with whom he could negotiate.

Q. Were you present during this conversation?

A. Yes. I heard that conversation.

Q. Do you recollect in the same period, namely March 1939, any meeting between your father and certain Slovak diplomats including Sidor?

A. Yes. I remember that on about 9 March my father told me that in the evening he left a meeting with some Slovak politicians, among them Sidor, and he said that he was worrying about Slovakia and that it caused him troubles.

Q. Can you explain to the Tribunal, Mrs. Radlova, how you remember this particular meeting so clearly?

A. I remember that because just that evening I visited with some friends, and I had arranged with my father that from there I would call up at home and ask him to inform me, either himself or by some other means, through one of his servants, if the meeting was over and whether it had good results or bad ones. Furthermore, I remember that well because I was always opposed to these meetings every evening of my father, because my father used to be very tired in the evenings since he had lots of work and lots of worries during the daytime.

Q. Thank you very much. Did you, Mrs. Radlova, subsequently hear any comments from your father, or otherwise, with regard to the results of this meeting your father had with the Slovak representatives?

A. Yes. I heard from my father only so much that he said that Sidor was for a cooperation between the Czechs and the Slovaks.

Q. Thank you very much, Mrs. Radlova. Directing your attention to 14 March 1939, had you heard anything with reference to Slovakia?

A. Yes. In the morning of the 14th I had already heard—in the late morning—that Slovakia had elected a house of representatives and had proclaimed its independence.

Q. Do you also remember with whom you had lunch on that day?

A. Yes. I remember that we had as a private visitor the Bishop of Koeniggraetz, Dr. Picha.

Q. I see. There were just the Bishop, your father, and yourself at lunch?

A. Yes.

Q. Can you tell this Tribunal, Mrs. Radlova, whether during the course of this lunch your father mentioned the possibility of a trip to any place?

A. Yes. I remember that my father came from his office, greeted our guest, and at the same time apologized that perhaps he might be forced to finish the lunch quickly; that perhaps he would be forced to go to Berlin, that Hitler desired that he leave for Berlin immediately by plane, that my father refused because he was old and sick and never had made a trip in a plane.

Q. I see. In other words, Mrs. Radlova, you have just informed this Tribunal that the suggestion for the trip to Berlin came from Adolf Hitler and not your father?

A. That is right.

Q. Thank you. When did you first learn that you, too, were going to Berlin?

A. Shortly after lunch we were called up at home by Dr. Havelka, who called me to the phone and informed me that at 4 o'clock in the afternoon there would be a train prepared, a special train, on which my father would go to Berlin; and he asked me if I would go with him, and I said I would.

Q. Just for the benefit of the Court, Mrs. Radlova, who was Dr. Havelka?

A. Dr. Havelka was Minister without Portfolio and Chief of the President's Chancellery.

Q. Thank you very much. What time did you leave for Berlin?

A. Four o'clock in the afternoon.

Q. Did others besides yourself accompany your father on this trip in the party?

A. Yes.

Q. Who were they?

A. Dr. Chvalkovsky, Foreign Minister, a member of the President's Chancellery, Dr. Clement, and an official of the Foreign Ministry, Dr. Moravek.

Q. Thank you. You stated that your trip started at about 4 o'clock on 14 March.

A. Yes.

Q. About when did you, Mrs. Radlova, arrive in Berlin?

A. We arrived in Berlin about 11 o'clock.

Q. During the course of your train trip did any German officials contact your party enroute?

A. Yes.

Q. Do you remember who they were or from what agencies?

A. Yes. I remember that they went aboard the train somewhere near Dresden, Doernberg of Hitler's protocol division and von Hallen.

Q. Do you know what office von Hallen was from?

A. I think he was from the German Foreign Office, but I don't know that for certain.

Q. Well, that is not too important. When you arrived at the German station in Berlin, who met your party?

A. Definitely there was Meissner to receive my father, and then there were some Germans in uniform with Meissner. I think that there perhaps also was Weizsaecker and perhaps even Lammers.

Q. But you are certain that it was Meissner, Otto Meissner?

A. Yes.

Q. Was Meissner with you or with your father as you left the station towards your car?

A. He was with my father.

Q. I see. Where did you go from the station?

A. From the station we went by car to the hotel.

Q. Do you remember the name of the hotel?

A. Adlon.

Q. And was the entire party billeted together?

A. We lived on the same floor but our rooms were separated by the corridor.

Q. As your party was going into its rooms, do you remember hearing any remarks with regard to activities of the German Army?

A. Yes. I heard that a telephone call had come from Prague by which my father was informed that about 4 o'clock in the afternoon the German army had entered Moravska Ostrava and that there was fighting going on there.

Q. Where were you when you heard this conversation?

A. I still was in the corridor with my father when he got that report.

Q. Do you remember who gave him the report?

A. I think it was somebody from the Czechoslovak Legation in Berlin.

Q. Was the language being used Czech?

A. Yes.

* * * * * * *

Q. About what time, to the best of your memory, can you recall your father returning to the hotel?

A. Around 5 o'clock in the morning.

Q. Can you describe his physical condition as you then saw him, to the best of your recollection?

A. He was very tired, pale, and completely broken.

Q. You say completely broken?

A. Yes.

Q. Can you remember if your father said anything?

A. Yes. He came and said the situation was very bad; that he was forced to sign a document* and that Dr. Chvalkovsky would read the document to us; that he had been put before a *fait accompli* by Hitler—that means the occupation of Bohemia and Moravia.

Q. Had he signed this document or was he going to sign this document later?

A. That had already been signed when he came back. When the document was read, my father drew our attention to two things. They were—that he had asked that his proclamation in that document would say that the fate of Bohemia and Moravia is in the hands of Hitler and not, as the Germans made the draft, that he puts the fate of Bohemia and Moravia into the hands of Hitler.

Q. You said there was a second point?

A. And the second point was that my father scratched out on the document the words "In the name of the Government" because he, as a lawyer, knew that according to our laws such a document would be invalid because the president may not sign any such treaties without the government.

Q. Thank you very much, Mrs. Radlova. Did your father do anything further at that time?

A. He was very tired and retired.

Q. What time the next day did you leave for Prague from Berlin?

A. Eleven o'clock in the morning.

* * * * * * *

Q. Mrs. Radlova, about how long did this return trip take?

A. Until 10 o'clock in the evening.

Q. In other words, the return trip took 11 hours?

A. Yes.

Q. Can you give any explanation of the delay?

A. We were amazed that we always had to stop on the track. We got the explanation that there was a great amount of snow on the tracks and that, as a consequence, the train could not continue the trip because there were obstacles.

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* Reference is made to the agreement reproduced earlier in this section as a part of Document NG–3917, Prosecution Exhibit 123.

Q. You stated that you were put continually on side tracks? I didn't hear that.

A. We traveled on the normal tracks.

Q. (To interpreter) I see. I thought you had said they were sidetracked.

THE INTERPRETER: Stopped.

Q. Oh, stopped on the track. I'm sorry. Mrs. Radlova, can you remember during this trip back, or at any subsequent time, anything that your father might have mentioned to you with respect to his conference with Hitler?

A. Yes. My father told me again, he repeated that Hitler had put before him a *fait accompli;* and that Hitler shouted at him and that he said it was an irrevocable decision to occupy Bohemia and Moravia; that every resistance he would meet with would be broken with bloodshed. At the same time my father told me that Goering said that if my father would not sign that document, he would be forced immediately to make an air attack against Prague; and that—although without any pleasure—he would be forced to do that because Prague was a beautiful city but he would be forced to destroy it completely, so he could show the Western Powers that the German air force can show something.

Q. I see. Was any reference made to an agreement, that you can remember, or talk of an agreement that you had previously mentioned? I will repeat the question: During the course of your subsequent conversation did you ever refer to the agreement between Hitler and—

A. He only talked about the document he had been forced to sign.

Q. Thank you. You have said that your trip back was a very long one?

A. Yes. It was abnormally long.

Q. When you returned to Prague did you notice anything unusual?

A. Well, first of all when we arrived in Prague, we immediately saw that the German Army already was in Prague. When we came to the courtyard of the castle, the courtyard was filled with German military cars so that we could hardly get through to our residence. When we stepped out of the car my father was greeted by an official of his chancellery who reported to him that Hitler was already in the castle.

Q. What was your father's reaction to this?

A. My father was very surprised because he just couldn't believe that Hitler would be in Prague before him.

* * * * * * *

CROSS-EXAMINATION

DR. BECKER (counsel for defendant von Weizsaecker): Madam Radlova, I would like to ask you about this visit which was mentioned at the beginning of your examination by the prosecution. Do you remember on what day this inquiry by Havelka was made?

WITNESS RADLOVA: I can't say for certain but it must have been at the beginning of March sometime.

Q. Do you think it's quite out of the question that this inquiry took place after your visit to Berlin?

A. That's quite impossible.

Q. Do you remember who addressed the inquiry to Weizsaecker?

A. I don't know for certain, either the Foreign Office which sent someone there or else it was our Embassy in Berlin.

Q. Do you know whether this inquiry was made in writing or verbally?

A. I think verbally.

Q. Do you know whether the reply came immediately or later?

A. I don't know how long Masarik remained in Berlin at that time, whether he got the answer the same day or the next day. I don't know.

Q. Did Masarik tell you this story himself afterwards?

A. No.

Q. From whom did you hear that, if I may ask that once again for certainty's sake?

A. I heard that from a conversation between my father and Dr. Havelka.

Q. So, in order to make that absolutely clear, may I sum that up again, and perhaps you will tell me afterwards whether I have got it right. On a date that you don't remember exactly, you heard from a conversation between Havelka and your father that Herr Masarik had been to Berlin, had asked either verbally or in writing for an audience, and it is supposed to have been answered in the manner you described?

A. Yes.

DR. BECKER: Thank you very much. No further questions.

DR. SCHUBERT [counsel for defendant Keppler]: Madame Radlova, you told us about a conference on 9 March between your father and Slovak diplomats?

WITNESS RADLOVA: Yes.

Q. I would like to hear once again from you, absolutely clearly, that what you know about it you only know from what your father told you?

A. Yes.

Q. Do you know, Madame Radlova, that long before the time about which you were talking, a Slovak independence movement had been formed?

A. I only knew from my father that the Slovaks were causing trouble all the time and that they were not on good terms with the Czechs.

Q. Did you also know, Witness, that Slovak politicians who supported this independence movement were in prison?

A. Yes. I know that. Some of them, I don't know exactly who, but I know that some were in prison in Slovakia.

Q. Now, another question. Did your father, after the events of 1939 about which you have told us, lay down his office?

A. No.

Q. What was your father's official position afterwards?

A. He was President of the Protectorate.

Q. And for how long?

A. Up to 1945—13 May 1945.

Q. Did the new Czech authorities place him under arrest for investigation purposes at that time?

A. Yes.

Q. Was he to be tried by a Czech court?

A. After the decision of the London government, made during the war, all the other members of the Protectorate government were to be investigated and examined to see whether they were guilty or not.

Q. Your father then died in prison, didn't he?

A. Yes.

DR. SCHUBERT: Thank you very much.

PRESIDING JUDGE CHRISTIANSON: Dr. Schilf.

DR. SCHILF (counsel for defendant Woermann): After 15 March 1939, in Bohemia and Moravia in the so-called Protectorate, was there a pro-German Czech party?

WITNESS RADLOVA: As far as I know I think there was only the Vlajka. Vlajka means flag.

Q. This is really a question to the interpreter. Could you interpret this word Vlajka into German or English?

INTERPRETER: Vlajka means flag.

Q. Were you yourself a member of this Vlajka?

A. No, never.

Q. And your father?

A. Never.

Q. My colleague, Schubert, asked you about the fate of your father. After 13 May 1945, did you yourself have difficulties from the new Czech Government because of your former political attitude at the time of the Protectorate?

A. None at all.

Q. Thank you very much. You told the Court, Madame, that your father, on the night from 14 to 15 March 1939, when he returned to the hotel, was, as you said, completely broken?

A. Yes.

Q. At that time the foreign press—that is not the Czech press or the German press, but the press of the other countries—claimed that your father had received injections or medicines of some kind from Dr. Brandt—that was Hitler's personal physician—and that these alone had made it possible for your father to follow the negotiations?

A. In the Reich Chancellery, my father received some sort of injection. After his return his personal physician in Berlin made inquiries about it and he was told that this was an injection to strengthen him, an injection of dextrose.

Q. Do you know whether your father or your father's personal physician, on account of the good effect of this injection, later on, months later, asked Dr. Brandt in Berlin to inform your father's personal physician what this medicine was or to obtain it for him?

A. No.

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REDIRECT EXAMINATION

MR. CAMING: Mrs. Radlova, with respect to the Weizsaecker episode that we have mentioned of early March: it is your recollection that regardless of the manner, orally or written, in which it was done, that Weizsaecker refused to see Mr. Masarik?

A. Yes.

Q. Second, and only because it has been brought up by the defense, what was the reason that your father remained as president as far as you can remember?

A. As far as I remember the reason for my father remaining as president was that he was afraid, not only he was afraid, but also other persons of his surroundings were afraid, that if he would resign the Germans would take over and put in his place a man who would be a hundred percent in their services and there would remain no more possibility to protect the Czech people. Furthermore, there was a danger that the Protectorate would be dissolved entirely and that Bohemia and Moravia would become a firm part of the German Reich.

* * * * * * *

RE-CROSS EXAMINATION

DR. BECKER: May I ask you once again to come back to this

visit of Herr Masarik in Berlin. Mrs. Radlova, you heard from Herr Havelka that in a conversation he had heard from Herr Masarik that Weizsaecker had refused to receive him?

A. You misunderstood me. I said that I heard a conversation between my father and Dr. Havelka in which it was established that this matter of which I told you in connection with Dr. Masarik's visit had taken place.

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WEIZSAECKER DOCUMENT 408
WEIZSAECKER DEFENSE EXHIBIT 121

AFFIDAVIT OF LORD HALIFAX, 28 APRIL 1948, CONCERNING REPORTS OF FOREIGN OFFICE ADVISORS THAT DEFENDANT VON WEIZSAECKER WAS A CONVINCED OPPONENT OF NAZI POLICIES

[Seal]

House of Lords

28 April 1948

Although I never had any personal contact with Baron von Weizsaecker and am therefore not personally acquainted with him, he was frequently reported to me by my advisors at the Foreign Office and by His Britannic Majesty's Ambassador in Berlin during my tenure of office as Secretary of State for Foreign Affairs from February 1938 to December 1940, as being a convinced opponent of Nazi ideals and policies, and as using his official position in the Ministry of Foreign Affairs in Berlin to hinder, so far as lay in his power, the execution of the policy pursued by Herr Ribbentrop.

[Signed] HALIFAX

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TRANSLATION OF WEIZSAECKER DOCUMENT 448
WEIZSAECKER DEFENSE EXHIBIT 414

AFFIDAVIT OF RAPHAEL FORNI, 3 JUNE 1948, CONCERNING THE POSITION AND ATTITUDE OF THE DEFENDANT VON WEIZSAECKER

Papal Nunciature of France

Paris, 10 May 1948
10, Avenue President Wilson
Paris XVIe

I, the undersigned, Mgr. Dr. Raphael Forni born on 24 May 1906 at Villa Bedretto (Switzerland), a Swiss citizen, formerly attaché, Secretary and later Chargé d'Affaires ad. int. at the Papal Nunciature in Prague (1938–39); secretary in Berlin (1939–42); Auditor at the State Secretary's office in the Vatican City (1942–45); then again Chargé d'Affaires in Prague (1945–48); and since February (1948) Auditor with the Papal Nunciature in Paris, take the liberty of submitting the following facts in the form of an affidavit to the Honorable Military Tribunal in Nuernberg. This document is to be used as evidence in the proceedings against Freiherr Dr. Weizsaecker:

In the beginning of his diplomatic career, Herr von Weizsaecker worked for many years in Switzerland (Basel, Geneva, and Bern). During that time, the undersigned was not acquainted with Herr v. W. But the affiant can and will testify to the fact that the Swiss will always remember him kindly, and he wishes to support this statement by referring to the testimonies of S. E. Mgr. Dr. Xavier Ritter, then Auditor at the Papal Nunciature in Bern, and that of Federal Councillor Giuseppe Motta, President of the Swiss Confederation.

[Signed] RAPHAEL FORNI

Federal Councillor Motta, whom the undersigned had the honor to know personally, always spoke of Herr v. W. as a noble, quiet, peaceable, and benevolent person. But the good relations between Herr v. W. and high circles in Switzerland are best demonstrated by the marriage of one of Herr v.W.'s sons to Fraeulein Wille, a niece of General Wille, who holds a place of honor in Swiss history of the First World War.

As mentioned above, the undersigned subsequently went from Prague to Berlin. In that city, he had the honor to make the personal acquaintance of Herr von Weizsaecker. Herr v.W. was always the spontaneous and confidential link between the various members of the Diplomatic Corps and the Wilhelmstrasse, where one could spend one's time just waiting about [wo man nur noch etwas warten konnte]. On the occasion of a larger official gathering, the Papal Nuncio greeted him by saying "I have been

looking for you for a long time but I have only seen you from afar, like the Promised Land." The sincere and noble friendship between the representative of the Holy See and the State Secretary enabled the members of the Papal Nunciature to see and speak to Herr v.W. on frequent occasions. At an opportune moment, the undersigned dared to ask him in a discreet fashion how he could possibly reconcile his high position with his education, ideology, and tradition. He gave me the following reply: My dear Monsignor, my fatherland is at stake. (Herr v.W. had recently lost a son who had been killed at the beginning of the war as a member of the German Army.) If I were to leave, who would take my place? I realize that it is not easy to prove this attitude of his. In a totalitarian state, the methods by which one can do good or prevent harm are totally different from those which can be used in a democracy. Thus, Herr v.W.'s work against the regime had to remain secret and could, therefore, not be documented or only in such a manner that it became noticeable to none but the initiated. Moreover his noble and deep love for his country and its mission put him into the dangerous position of being misunderstood and having his attitude misinterpreted as a compromise with the regime. Time and again, Germany has unfortunately been confused with national socialism. But one thing is certain—if State Secretary v.W. had been a trusted representative of the Nazi regime, he would not have been removed from office at a time when the position was more dangerous than ever and Germany on the threshold of her greatest test. No one will be surprised to hear that it became at once evident and was openly said that Herr v.W. was promoted to the Vatican owing to his religious and political principles. His attitude to Catholics was always correct and absolutely just. In Rome, the undersigned had frequent opportunity to meet the Ambassador. He always gave the impression of a man who regarded his country's fate as the logical consequence of the absence of reason and order over which, unfortunately, he had so little control.

The Ambassador's deeply religious outlook helped him to see the impending disaster in Germany in the correct light, namely as a capitulation of the religious and cultural spirit. Divine Providence, he said to me on one occasion, should send us another Francis of Assisi, an apostle. We can only be saved if man will reshape himself.

In conclusion, the undersigned is firmly convinced that all persons who had the opportunity of getting to know Herr v.W.'s views and his efforts, thought—here is a real man.

Paris (16) Av. Pres. Wilson 10, 3 June 1948

[Signed] RAPHAEL FORNI

TRANSLATION OF WEIZSAECKER DOCUMENT 451
WEIZSAECKER DEFENSE EXHIBIT 377

LETTER FROM POPE PIUS XII TO DEFENDANT VON WEIZSAECKER, 1 MARCH 1947, REPLYING TO A LETTER OF DEFENDANT VON WEIZSAECKER

(Papal Seal)

To the Honorable Baron Ernst von Weizsaecker in Lindau/ Reutin

In kind memory of the times spent within the walls of the Vatican State you have assured Us, also in the name of your wife, of your sincere wishes for the Holy Festivals and have let Us know how you see the present material and spiritual situation of your people on the basis of the impressions gained at home.[1]

We pray you to remain convinced that Our participating care stays incessantly turned towards the coming of a true European pacification.

Within this great frame of a renewed Europe, Germany can always count on Our understanding furtherance in her efforts to find the basis for her renewed rise and to stay conscious of the place defined for her by Providence.

We shall not cease hoping that the present year overcomes the period of greatest need of your Fatherland and—in spite of all possible obstacles and passing setbacks—may give noticeable impulses to this renewal. Fervently recommending to God in prayers you and your entire family's well-being, We transmit to you and to your wife the expression of Our benevolence and sincere wishes.

From the Vatican, 1 March 1947

[Signed] PIUS PP. XII

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON WEIZSAECKER[2]

DIRECT EXAMINATION

DR. BECKER (counsel for the defendant von Weizsaecker) : Herr von Weizsaecker, first of all would you give the Tribunal your full name. May I draw the attention of the Tribunal to the fact that Herr von Weizsaecker must hear the German examination

[1] The communication of von Weizsaecker to the Holy See which is referred to was not offered in evidence.

[2] Complete testimony is recorded in mimeographed transcript, 7–11, 14–18, and 21 June 1948; pages 7593–7609; 7691–7793; 7826–7928; 8014–8098; 8274–8365; 8506–8514; 8544–8611; 8621–8722; 8799–8848; 8880–8900; 8994–9080; 9155–9254; 9421–9448. Further extracts from the testimony of the defendant von Weizsaecker are reproduced later in sections VI E and VI F; this volume and in volume XIII, section IX B 3.

over the headphones, too, because his hearing is not very good. Herr von Weizsaecker, first of all would you state your full name for the record?

DEFENDANT VON WEIZSAECKER: Ernst von Weizsaecker.

Q. Would you briefly give us the story of your descent and duties?

A. I was born in 1882 in Stuttgart in Wuerttemberg in South Germany. I was a member of a Protestant family. My ancestors were, for the most part, scientists and theologians on both sides of the family. My father was an attorney. First he was a judge. Later, almost 20 years, he was a Minister in Wuerttemberg and later Minister President. I myself went to high school and graduated in the year 1900.

Q. What profession did you then choose?

A. In 1900 I entered the German Navy. I wanted to see foreign countries. I was abroad quite a lot—in Asia, Africa, South Seas, but I was never in the Western Hemisphere. The navy had something tempting for me as a collecting point of the German races for common service. My Swabian fellow countrymen had, as early as the middle ages, seven and eight hundred years ago, been loyal to the Reich. They were Federalists and not Unitarists.

Q. Were you in the First World War?

A. Yes. In the navy. I was in the battle of the Skagerrak—the so-called Battle of Jutland—as a lieutenant attached to Admiral Scheer. During the last phase of the war I was on the staff of Field Marshal Hindenburg. After the war I was soon sent to The Hague to Holland as naval attaché.

Q. When did you leave the navy and why?

A. In 1920 I transferred to Foreign Service. I did not think that in my lifetime the German Navy would ever again revive because of the restrictions imposed by the Versailles Treaty and because of Germany's continental location. Germany needed protection on land more than on sea.

Q. You mentioned the Versailles Treaty. What did you think of its consequences?

A. I thought the Versailles Treaty most unfortunate. I told myself that there was the germ of a new war inherent in it. I feared that my own children would have to suffer the consequences and that is what happened. One of the creators of the Versailles Treaty, Clemenceau, shortly afterwards, told the cadets of St. Cyr—that is the French equivalent of the American West Point—

Q. You mean the French West Point.

A. Yes, the French West Point. He told these cadets—"Don't be afraid for your careers, gentlemen. The peace we have granted guarantees 10 years of disorder in Europe for you."

Q. Are you married?

A. I am married. My wife comes from my own part of the country, Wuerttemberg. We have five children and three of them are still alive.

Q. What made you enter the Foreign Service rather than any other?

A. I had an offer from industry which was quite good but I preferred the civil service. A brother of mine had been in the Foreign Office before the First World War and had been killed during the war. I more or less stepped into his place.

Q. So, from service under the monarchy you passed into the service of the republic and later you served the dictatorship. What constitution did you prefer?

A. I didn't prefer any constitution. A constitution, as far as I am concerned, is not a confession of faith. I imagine that a constitutional monarchy is that which lies closest to the German character. But as a civil servant, one doesn't serve a constitution, but the Fatherland. One serves whichever government and constitution is given to the country by the people.

Q. What particularly attracted you to the foreign service?

A. I was particularly interested in the League of Nations. Germany's policy could consist only of a peaceful development and gradual falling into line within the circle of the remaining nations; and particularly the League of Nations.

Q. How did you show your interest in this development?

A. First of all I had to undergo apprenticeship. I was a consul in Switzerland in Basle. Then I was a member of our Legation in Denmark, Copenhagen; and then I was called into the Foreign Office about 6 years after first entering the Foreign Service in order to handle League of Nations and disarmament questions. In this capacity I was often in Geneva. For many years I attended international conferences. I considered genuine international collaboration to be a decisive task.

Q. In connection with Herr von Weizsaecker's work in Geneva, I would like to draw the Tribunal's attention to book 1–B, exhibit 10.* Herr von Weizsaecker, what were your experiences in Geneva?

A. My experiences in Geneva were, to put it in one word, bad. It was sad to see how after the great sacrifices of the World War, the League of Nations suddenly gave birth to new nationalism on all sides. The League of Nations suffered from two diseases. It wanted to be a supernational state, and yet did not include even all the major powers. The United States was missing and so

* Document Weizsaecker 155, Weizsaecker Defense Exhibit 10, an affidavit of Dr. Hans Frohwein, is not reproduced herein.

was the Soviet Union. Everybody knew that peace is indivisible. There was talk of collective security. Without the United States and without the Soviet Union, that was simply self-deception, and in my opinion in the last instance, the League of Nations died of hypocrisy. I watched this development and regretted it deeply and considered it to be dangerous.

Q. Why dangerous?

A. Because the League of Nations was supposed to safeguard the peace of the nations. According to its idea, peace was to be safeguarded by adherence to the *status quo;* that is, the world was to remain split up between the victors and the vanquished. I think I am not mistaken that because of this basic error, the United States was right to refuse to join the League of Nations. The victorious powers prevented disarmament within the League, for which President Wilson had fought. I myself for about 6 years was personally concerned in the struggle concerning disarmament. Every practical success was refused to the German Republic and I think one can say that in the last instance the Weimar Republic received its death stab in Geneva. If the Weimar Republic had in good time been taken into the circle of nations, with equal rights, Hitler would have lost 50 percent of his propaganda success. At that time I told my foreign friends in Geneva that it lay in their hands whether in future they wanted to deal with a democratic Germany or with a Hitler Germany.

Q. Do you see cause for the rise of national socialism in the failure of Geneva?

A. Undoubtedly. The Weimar Republic, as I said, received its death blow there both with a view to nationalism as well as to economy. The words "economic crisis" went back to 1929, when the United States established their price-protecting tariffs; and in 1932; Germany had 6 or 7 million unemployed; and so the time was ripe for National Socialist revolution.

Q. So you were not surprised by the seizure of power of Adolf Hitler?

A. I was not in very close touch with home policy. I was not and never have been a member of any party. I lived for my career and foreign politics. I had been promoted Head of Mission [Missionschef] while Bruening was Chancellor. I was transferred to Norway, to Oslo, as Minister. From there, that is, seen from abroad, I knew that by the number of votes he had received Hitler had a democratic and legitimate claim to power, but in spite of this I did not believe he would obtain it.

Q. What do you think of 30 January 1933? What did you think of it then? Did you think that Hitler would support foreign policy and promote it?

A. I had to some extent become acquainted with exponents of national socialism in Geneva and in the sphere of foreign policy, and this experience was not very encouraging. I considered these people to be so naive in this sphere that they couldn't be taken seriously. My subordinates in the Oslo Legation told me on the day after the so-called seizure of power something along the following lines: "The revolution had the right and perhaps even the duty to have itself represented by people of its own kind." I am not one of them. I therefore expected to be recalled, but I was prepared to represent German interests in Norway as long as I was left here and for as long as I did not receive any too strange instructions. At that time Bernhard Wilhelm von Buelow was State Secretary in the Foreign Office, a friend of mine, and he and I agreed that one should not leave one's work in the lurch, of one's own accord. It is a latter-day retrospective reconstruction to say that every sensible human being should at that time have left the civil service.

Q. In staying in office in 1933 you were therefore in agreement with those who shared your views?

A. A few left the service. Some were removed and I am not criticizing these but my own opinion, as I say, was a different one, and I was not the only one to hold it; and I think, too, that there were a number of foreign voices who approved the view. One or another of them have been already mentioned here, and I think one of the witnesses has already quoted a remark of Winston Churchill's in this context.

Q. In this connection may I perhaps also refer to the affidavit by the former Reich Chancellor Bruening in book 2, exhibit 330.* Did this procedure now prove to be right? Did foreign policy actually continue on a peaceful course?

A. You can't say that. Foreign policy was very soon split up into the policy of the Foreign Office and the policy of the Party. The extravagances of the Party with regard to foreign policy came about very soon. At the beginning of April 1933 I was briefly in Berlin on duty and told the Foreign Minister, Herr von Neurath, that I presumed that during the last 2 months he must have handed in his resignation at least three times. Neurath offered me the post of State Secretary then. I refused. Herr von Buelow was sickly or sick; but I refused because I thought that such an excellent man as von Buelow was absolutely indispensable in such difficult times. I told him myself, too, that he should under all circumstances remain in service until the danger zone was past.

Q. What do you mean by the words "danger zone"?

A. I considered the disorder and the dualism in foreign policy

* Document Weizsaecker 1, Weizsaecker Defense Exhibit 330, not reproduced herein.

to be so dangerous that I had to speak of a danger zone. My impressions on the official trip which I mentioned, were such that in May 1933, I told my friends that if Germany continued along this line, Germany would be bound to end up in a war. However, —and I think this was a fairly widespread error not only at home but also abroad—I did believe that the unrestricted financial policy of Hitler would within a very short time land Germany in an economic catastrophe so that a new change of regime would result.

Q. Until when did you remain Minister in Oslo?

A. For about 6 or 9 months. In September 1933 I was transferred to Switzerland as Minister. Before that I had a short guest role to play in Berlin dealing with personnel matters. The question at that time was topical whether members of the foreign service should enter the Party or not. I suggested that the officials of the Foreign Service should be forbidden to enter the Party, the same as military personnel, but I could not get this put into effect and, as far as I was concerned, I stated that I had never been a member of a party, and that I would like to leave it at that; and they accepted that for the time being.

Q. Herr von Weizsaecker, at that time professional soldiers and professional officers were not permitted to be members of the Nazi Party, were they?

A. Quite right! And I thought that for an official representing the German Reich abroad it would be more suitable to hold a similar neutral position.

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Q. To what extent did foreign countries, at that time, strengthen Hitler's power?

A. In a number of ways. I could quote a number of dates; but one of the most outstanding ones, no doubt, is the year 1935, the date of the so-called German-British Naval Treaty. In 1935 Hitler introduced general conscription, which was formally a breach of law; and a week or 10 days later the British Ministers, Simon and Eden, appeared in Berlin to see Hitler; and Great Britain sanctioned Hitler's unilateral action. And a short time later, by a special naval treaty, the new strength of the fleet was also sanctioned, for which Herr Ribbentrop had gone to London.

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Q. At that time in [1935], did you see any other indications of a danger of war?

A. I obtained some insight in this regard because, in the late summer of 1936, I was called to Berlin in order to serve as a deputy. Because there the aforementioned State Secretary von

Buelow who had died and, as deputy, I was to serve as chief of the so-called Political Department. On this occasion I found that in the Foreign Office the reins of government had slipped. Hitler had no great opinion of the Foreign Office. Even then, I think, he already called us a club of defeatists. He preferred information from laymen to that obtained from us. Decisions were taken without the Foreign Office or even the Foreign Minister being heard on the subject. Under normal conditions an opinion is formed by the expert and is passed on to the top levels for decision. Instead of this, orders came to us out of a clear sky, from top to bottom, as an accomplished fact. Our Foreign Service had sunk to the level of a technical apparatus. It was really only a facade, the facade of a firm which had undergone considerable internal rearrangements.

There has sometimes been mention of the alleged omnipotence of our office. That was quite out of the question; it was quite the contrary. Ten years earlier, as a simple expert for League of Nations matters, I had far more say in the Foreign Office than I had as Director of the Political Division.

Q. Could you give us some concrete examples of this?

A. There are many examples. For instance, in 1936 the most outstanding, perhaps, is the Spanish Civil War. The Foreign Office was taken by surprise by the news that German volunteers would fight in the Spanish Civil War on the side of Franco Spain. Dangerous complications were almost inevitable as a result. I found that with respect to organization, too, the Foreign Office was in a state of dissolution. Dr. Goebbels had taken over propaganda. He carried out foreign propaganda from the point of view of home policy, just as it suited his whim. In 1937, on the other hand—that is, one year later—it was possible to see how, for instance, an ambassador, Herr von Ribbentrop, in London was in direct contact with Hitler instead of with or via the Foreign Office, as was the proper way. Then there was Herr Rosenberg, as an exponent and Reichsleiter of the Party, who had organized an office concerned with foreign policy.* There were many other Party agencies, too, which were spreading themselves in foreign policy; naturally, Herr Goering and Herr Hess too, at least where personnel was concerned, and so on.

Q. Under such circumstances, was it worthwhile to go on working in the Foreign Office?

A. That is an important question. Just because the Foreign Office was steering a dangerous course and had allowed itself to have the steering wheel wrested from its hands, for this reason it was important to stay with it. The Foreign Office was depend-

* Foreign Political Office of the Nazi Party (Aussenpolitisches Amt der NSDAP).

ent on its old officials. In the spring of 1937, when my temporary appointment in Berlin was over, I said I was definitely prepared to take over the office of Chief of the Political Division if they wanted to entrust it to me.

Q. So you became Director of the Political Division of the Foreign Office in the spring of 1937?

A. Yes. I retained that position for 1 year until the spring of 1938. That year was relatively calm. During this year it was possible to remove some dubious or dangerous points of our foreign policy. We tried to steer a defensive course. We made a treaty with Belgium, which has already been mentioned today, with England—

Q. May I interrupt a moment? Would you, perhaps, give us the name of this treaty, this treaty with Belgium?

A. Yes. This was a question of getting Belgium out of the implications of the Locarno Treaty. The Locarno Treaty had been canceled 1 or 2 years earlier and Belgium was hovering in the air and needed a certain amount of safeguarding. As a result of bilateral agreements between Germany and Belgium on the one hand, and England and Belgium on the other hand, this new guarantee for Belgium came about.

Q. How were dangerous positions removed during this year, in other respects?

A. At that time we tried to have conversations with Great Britain with respect to a sort of Western Pact and I remember having made notes for Herr von Neurath, laying down the guiding principles for such a discussion with Great Britain. Unfortunately, however, the visit and the discussion never came off. With respect to France, Hitler stated at that time that he had no further territorial claims. He definitely declined the right to Alsace and Lorraine; the Spanish war could, to some extent, be decontaminated as a result of the so-called nonintervention committee in London; there was a declaration with respect to Poland on 5 November 1937, I think it was, concerning the treatment of minorities. Our relationship with Italy improved too. I had close contact with Ambassador Attolico, a man of great character who will still be mentioned a great deal, and we were in agreement that the relationship between Italy and Germany must be kept on good terms, but not too excessively good. At that time there was a conflict between China and Japan and we in the Foreign Office tried very determinedly—and I myself tried to work to this end—to find some kind of compromise for possible conclusion of the Chino-Japanese conflict. This question seemed to me to be very important for world peace and I even believed, once or twice, that we were close to our goal. Unfortunately, it did not succeed in the end.

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Q. So finally Ribbentrop asked you whether you were prepared to become State Secretary. Did you already know Ribbentrop at that time?

A. I had seen him privately perhaps two or three times before. My impression of him was that he was a person of fantastic political imaginations who could be influenced. We talked for about 2 hours and at the end I had discovered that for the time being no war was planned. I accepted with the remark that I was prepared to resign at any time if we could not get on together because I was not ambitious. For my own memory at that time, I noticed that the changeability of views of Herr von Ribbentrop seemed to me to give me a sufficient scope to fulfill the task for which I was remaining in office—that was the prevention of war which, according to my opinion of that time, would have meant the end of Germany.

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Q. Was it possible for the State Secretary to sign laws and attend cabinet meetings?

A. No.

JUDGE MAGUIRE, PRESIDING: I did not get the question, Doctor.

Q. I had the impression, so I will repeat it. Could the State Secretary sign laws and did he attend cabinet meetings?

A. No, he did not have the right to sign laws and he did not attend cabinet meetings. He was not a member of the government. Nor did he have the powers to countersign which the Ministers had. He was purely a civil servant and normally came from the ranks of the Diplomatic Service.

Q. Were you a Party member when you became State Secretary?

A. No. I think I was rather unique in the Reich at that time in that respect. I don't think that in any other Ministry there was a State Secretary who was not a Party member or at least a member of a Party formation. Before appointment as State Secretary I had no connection whatsoever with the Party and avoided any such contacts.

Q. What happened after your appointment?

A. In this respect?

Q. Yes, in this respect.

A. After my appointment as State Secretary I was told on behalf of Party Minister [Parteiminister] Rudolf Hess, by a certain gentleman who is not here at the moment but who usually sits in this dock,* that it was considered desirable to grant me

* Reference is made to the defendant Lammers who was excused from attendance at this session of the trial by the Tribunal (*Tr. p. 7690*).

Party membership for aesthetic reasons and that henceforward I would please wear the Party badge. At the same time, von Ribbentrop told me that I had been appointed an honorary member in the SS. In both cases I did not take any initiative whatsoever. Both were consequences of my appointment as State Secretary. I did not become State Secretary because I wanted any connection with the Party but in spite of the fact that I had nothing to do with the Party.

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Q. How did your relationship with Ribbentrop develop?

A. My first conversation of any length with Herr von Ribbentrop took place at Easter 1939, on his estate at Sonnenburg near Berlin. A normal discussion, in view of the eruptive manner of speaking and thinking of Herr von Ribbentrop, hardly took place at all. My objections seemed to slide off his back. I had the impression at the time and expressed it in confidential circles too, that it would have been better for my brother to be attached to Herr von Ribbentrop than myself, because he is a neurologist who, as far as I know, is fairly well known in foreign countries as well. He is at Heidelberg.

Q. What was the actual outcome of this conversation with Herr von Ribbentrop that Sunday?

A. There was no actual result but it disquieted me to a great extent, not because I believe that the wild fantasies must be taken seriously. I expected that in the period of peace which Herr von Ribbentrop had mentioned, which was supposed to intervene, these fantasies could be corrected to the necessary extent because such melodramatics were bound to be smashed on the rocks of reality, but how could one talk seriously to such a Minister?

Q. In the prosecution's opening statement* it says that Ribbentrop relied strongly on the professional diplomats who, without reserve, signed away their souls in favor of conquering the world.

A. To my amazement I heard the same thing in the opening statement. In the first place, I don't know a single professional diplomat who did sign away his soul in favor of this so-called conquest of the world; and in the second place, Herr von Ribbentrop did not possess the art of listening—certainly not with regard to German professional diplomats anyway, nor with regard to foreign diplomats either. The French Ambassador Francois-Poncet told me very clearly that he simply couldn't talk to Herr von Ribbentrop because Ribbentrop only heard himself speak.

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* Section V B, above.

Q. At the same time were you also in touch with Halder and Beck?

A. Yes. One could not know what the political course of events would be—how the reaction from London, for instance, would be—or Hitler's reaction to a warning from London; and, for this reason, at that time I was, in actual fact, in touch with General Halder, Beck's successor, who was preparing to prevent Hitler, at the last moment, from carrying out his intentions of war; that is, to make sure of Himmler's and Hitler's persons before they could act.

Q. So you also consider yourself a part of the so-called resistance movement?

A. I was of this opinion from the summer of 1938 on, that we could not in the long-run preserve peace with Hitler. That is why I considered resistance necessary.* The main people in the movements knew that. They were in touch with me. I advised them, but I myself am not the man to carry out violent actions of such a nature.

Q. In actual fact it took a very long time before this resistance movement did act. Why was that?

A. It is on the one hand perhaps rather striking, but, on the other hand, very natural. It is natural when you consider that the right moment from the point of view of foreign policy practically never coincided with the right moment from the point of view of domestic policy. Hitler was, at that time, the adored idol of the German people—of the great masses of workers, some of the farmers, too, and especially of the middle classes. To remove Hitler without an absolutely effective reason would, for instance, have meant a threatening war. I say, therefore, to remove Hitler without having a decisive reason might have resulted in a civil war with very bad results. And now, at the moment of utmost tension in foreign affairs, Hitler could be removed only if the foreign powers were prepared to support the succeeding government. Without such a guarantee, the resistance movement was risking too much, because it was undertaking responsibility for the entire country. I can only say that from the spring of 1940 onwards the German resistance movement in London was only discouraged instead of being encouraged. That was historical doom. It was a historical fact, at any rate, in that in August or September 1938, the interplay of the resistance movement and political action in London was not as perfect as it had been in-

* The defendant von Weizsaecker gave testimony bearing on his claim of participation in the "resistance movement" at various points in his testimony. In the extracts from his testimony reproduced in volume XIII, section IX B (Atrocities), this is developed much more extensively, and in that same section, testimony of von Schlabrendorff, a defense witness on this point, is included.

tended. But war did not come the moment the agreement was reached. For the whole of the summer of 1938 I had worked in an effort to oppose Ribbentrop's encouragement of war, partly by direct attempts and partly by all sorts of devious methods. Munich was a happy day for me. In fact, it was the last happy day of my life.

Q. But there are not many people who agree with this opinion today.

A. Yes, I know but still I can't change my opinion. Just on the day of the Munich Agreement the experts went different ways. In Munich those who advocated war on the German side were dissatisfied and I can still see before me the disappointed faces of Herr von Ribbentrop and Herr Himmler when the scales tipped on the side of peace. And in the same way abroad—I say abroad —many were disappointed with this great opportunity of putting an end to Germany and Hitler by a successful war, which had been missed. But I maintain that only those who do not know what war is could think in this way. A man who knows what war is and was still against maintaining peace at Munich I describe as a "catastrophic politician" [Katastrophen-Politiker], a man without heart and understanding.

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Q. Now, what was your position with regard to the Sudeten problem?

A. During the period which we referred to, as it is a well-known fact, Herr von Neurath and Hermann Goering assured the Czech Minister that the Anschluss did not involve the Sudeten territory. I considered this assurance to be honest and to be correct. However, if you ask me in a more general way, then I must make the following remark:

From the period in 1918 and 1919, when the peace treaties were established, the borders of Czechoslovakia and Germany were subject to much discussion. And even among the Allies, the then Secretary of the State Department, Mr. Lansing, expressed himself with regard to this border question in the following manner. He said that the borderline as it had been established eventually, directly violated the spirit of the League of Nations, the International Disarmament policy, and the policy of the United States of America. I gathered these words from a book of Mr. Bonnet because I don't have the original wording of Mr. Lansing's utterances. In spite of that, I would never have been in favor of a forcible solution but always in favor of a peaceful revisionism, that is, a legal revisionism.

Q. When did it become apparent to you as to what Hitler planned with the Sudetens? In this respect, the prosecution

charges that in the spring of 1938, you had known perfectly that Hitler wanted to enlarge his territory and did not try to improve the actual situation of the Sudeten Germans.

A. Yes, I noticed that very frequently; namely, that the prosecution seems to know what I thought, or rather they know better than I do what I thought, what I thought in every single moment. They actually prescribed what I must have thought at the time; I mean, they do *ex post facto*. What is correct is that I tried as hard as I could to learn as much as I could about what Hitler really wanted and planned. However, Hitler was highly talented in camouflaging his real intentions. Furthermore, he was even wavering in his own intentions. In the case of the Sudeten territory, for instance, he gave his instructions directly to a certain Henlein, a leader of the Sudeten-Germans. He didn't only issue directives and instructions to this man, but he also issued other directives to one Frank, who was another leader of the Sudeten-Germans, and those instructions were by no means always identical. A few bits and pieces would also go to Herr Ribbentrop and insofar as he passed them on to us we had to see how we could put that picture together. Whether, in the spring of 1938, Hitler already thought of expanding the German territory at the expense of Czechoslovakia, I don't know for certain even today. As I have already said, he denied that to Herr von Neurath and that is a well-known fact. Probably the idea of incorporating the Sudeten territory to Germany became more tangible in Hitler's mind towards the end of May 1938.

Q. When you refer to that date, what do you think of?

A. I think of the so-called weekend crisis. Now I don't want to describe this weekend crisis in detail because it is well known. You can read about it in white and yellow and blue books, and also in biographies like that of François-Poncet or in Sir Nevile Henderson's book, and so on and so forth. As far as this weekend crisis was concerned, the fact remains that at that time the Czechs, and more particularly the Czech military circles, pretended that German troops had been concentrated around the Czechoslovak borders and used that pretense for measures of mobilization. That was the reason why the British Ambassador came to see me, in order to discuss it with me.

Q. I think you saw the British Ambassador quite often, did you not?

A. I saw Henderson often and I liked him. He was one of those good types of foreign diplomats with whom you could speak in open words. He knew perfectly well how to make the distinction between what could be talked about in an official manner and what was being talked about in a private manner. He knew what I was telling him by order and he also knew what was my

personal opinion—he knew how to make the distinction between the two, and our conversations were regularly split up into those two components. If we wanted to have a very private conversation, then Henderson would come to see me in my apartment, or he would come to my garden, where we were not checked up on. Later, and that was a great satisfaction to me, I could ascertain in publications, and specifically in the British Blue Book, that Henderson used my name only with great discretion. He never involved me by being too open in his remarks with regard to me, and he never got me into trouble with my own superiors this way. As far as my own notes are concerned, of our conversations, they of course, contained also only those parts of our conversations which were deemed fit for submission to our chiefs of state. I stressed what could serve both Henderson's and my own purpose, namely peace; be it by quieting matters down or be it by alarming the high-level circles—according to what the situation was.

Q. Therefore you had a visit from Henderson during the German-Czechs weekend crisis. Now what was the subject of your discussions?

A. Henderson submitted to me the very disturbing fact that rumors went around in Prague that Germany was concentrating troops around Czechoslovakia and also the fact that Czechoslovak troops had actually been mobilized. To Henderson I could give a denial of the assertion in regard to German troop concentrations, after I had secured the necessary information in regard to that. Now, concerning this conversation, there were some disputes between Herr von Ribbentrop and myself. He was of the opinion that I should have thrown the Englishman out, instead of clarifying matters with him. In spite of that I was quite satisfied with what I had done, because I had done my share in quieting matters down. I was not sorry for what I had done. But the misfortune only came afterwards. The foreign newspapers asserted that Hitler had given up his plan because of foreign pressure, or foreign threats. To say such a thing to a dictator is, as is well known, a mistake—an unforgiveable mistake even because, as is also known, dictators are very touchy about public opinion and very often they depend more upon public opinion than presidents of republics or monarchs. Therefore, for Hitler, this charge that he had given way to threats of pressure was the signal for preparing or starting a military action against Czechoslovakia. Of course we in the Foreign Office would not hear of that officially but we would hear about it anyhow, by devious ways.

Q. Therefore, from the end of May or from June onward, you considered that there was a possibility of war?

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A. Yes. At any rate the problem now was no longer whether Hitler wanted enlargement of territory or not but whether Hitler was going towards war; and here already a possible aim and a justification for that aim was completely covered by the method, that is, by the setting up of the scenery for an armed conflict. Up to that point I had got along fairly well with Herr von Ribbentrop but from that moment onward our relationship entered a new stage.

Q. Will you tell us, in a few brief words, what were the characteristics of that new phase of your relations?

A. I had tried, up to now, getting my plans through by direct conversations. But now I started to use more devious means, via foreigners or via the military circles, to convince Hitler and Ribbentrop, as I have explained, to convince them that war had to be avoided. My arguments, of course, were tuned on the mentality of these people. I did not say that the war would be immoral. I just said "we are going to lose that war." As both of them believe that if war broke out it could be localized, my remark was that England and France would intervene if Germany would march. That was the kind of language I became used to employing—you can call it a double talk—and it was tuned on the question of how it would affect the person to whom I addressed it, namely Hitler.

Q. In other words, you did not quite give up attempts to use direct influence, at least attempts?

A. No. I continued to try and there would be small clashes or scenes once in a while. I remember a scene on the Tempelhof airfield in Berlin, where we shouted at each other, in July, when Herr von Ribbentrop moved around in dreams of war and victory and where he gave out a circular letter to our missions abroad. I told him that to third persons you have to talk in such a manner that they believe you, but at least it was our duty, I said, not to lie to each other. This war which he was dreaming about would certainly be lost. Such conversations were repeated several times. Herr von Ribbentrop had to look for another State Secretary. In September 1938, there were some disputes here in Nuernberg. During these disputes I based myself, among other things, on the opinion of the persons who had been summoned to the Reich Party Rally, the German Chiefs of Missions and Ministers abroad, the opinions of Dieckhoff, von Moltke, Mackensen, Count Welczeck, and so on. On 8 September 1938, I told Ribbentrop that these experts were all of my opinion, and he, Ribbentrop, was wrong—he was mistaken; that is what I told him. I am mentioning that to demonstrate what kind of conspiracies were the so-called "diplomatic conspiracies" which are

mentioned once in a while in the speeches of the prosecution and which the prosecution seems to make the subject of their fantasy.

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Q. Now, what was your attitude as far as Munich was concerned?

A. My attitude was the following. I considered that time had been gained and that cleared the way for fate. If, by some unforeseen turn, fate wanted to direct matters further in a peaceful channel it was to be attempted to overpower the Hitler regime without using the means of a European conflagration or a world catastrophe.

Q. What did your friends of the inner circle of the resistance movement say about Munich?

A. They were, of course, also very glad but they would have preferred if the solution had been obtained in some other manner.

Q. What do you mean by that?

A. They had wished, as planned already twice in September 1938, that Hitler would be arrested by German soldiers and thereby prevented from continuing to play with fire and they called the events of Munich the second best solution at the time. Maybe it is even clearer if I define what was meant with "second best solution." The best solution for them was simply to arrest Hitler. The second best was Munich, peace through the Munich Agreement. And the third best or rather the worst solution would have been war, which Hitler would not have outlived either.

Q. Therefore it is correct that the inner circle of the opposition, of the resistance movement, was not quite satisfied with Munich.

A. No, because now you had to wait again until a new occasion arose—that is a new crisis—and again some striking reason for a new action for the arrest of Hitler.

Q. You yourself—soon after Munich—went on a long leave.

A. Yes, I did and Ribbentrop was not at all opposed to my going on leave because he did not forgive me this day of Munich. First he sent me to Paris to some funeral. It was the funeral for the Secretary vom Rath, who had been murdered there, secretary of the German Legation. That is an event concerning which I will have some separate discussion with the prosecution at a later stage. Then I made a Mediterranean cruise and when I came back Ribbentrop told me that I was in disgrace with Hitler and that Hitler was considering me a defeatist. My relations with Ribbentrop thereby entered a new phase again. That is the phase of open hostility. In December 1938, once again I offered my resignation to Ribbentrop, and I did not desire that Ribbentrop think that I was dependant on his good graces, but the gentle-

men on the top level apparently were not inclined to have such a change come about. Only Ribbentrop quite systematically prevented me from reporting to Hitler from that moment onward. But I said to myself that it would be favorable if we perhaps could again outwit the war makers as we had done in Munich.

Q. In other words, you were all the same decided to play along and to intervene in your own sense?

A. Yes. I resumed the fight against the political pirates and it might have been a contradiction to that. I thought of my sons and my son-in-law who had to go to war if a war broke out. Because what could happen to me myself was not much more than that I would do my duty in the interests of peace and would, perhaps, lose my life in that fight. But the possible gain made it worthwhile to stake my life. The possible gain which was peace was worthwhile. Well, at that time I would not have dreamt that one day I might have to face a Tribunal on account of having taken that decision, accused by an authority which is itself of the opinion of the friends of peace. They actually accuse me with having worked towards peace.

Q. Apart from this peace idea, didn't you have other intentions in remaining in office?

A. The peace intentions were the most important but of course I thought also that it would be necessary to maintain a stock of old trained officials in office: This stock of old officials, whom we had saved over from the Weimar Republic.

* * * * * * *

Q. Now, I come back to your leave after the Munich Conference. What happened in the winter 1938–39 after you returned from your leave and took up your service again?

A. When I returned from that Mediterranean cruise, I ascertained that the German-Polish conversations concerning Danzig and the Corridor had started and that it had already reached the stage where the situation would become difficult; and I found out that Hitler would hardly remain peaceful; and that he was dissatisfied with this day of Munich which allegedly had been spoiled for him by the pacifists. And I gained the impression that either there would be a new incident concerning Warsaw or, if not Warsaw, Prague would be the subject of some new blow-up; and it is correct, also, that as early as 10 days after Munich, Hitler had made an inflammatory speech at Saarbruecken and from that you could already conclude that he considered Munich a defeat for him.

Q. Could you do anything against these possible plans against Warsaw or Prague?

A. I went to see Ribbentrop when I returned and during that first conversation—I think it must have been between 8 and 10 December 1938—I told him that now he should leave Czechoslovakia alone. After all, this Czech country was no longer of importance. And I talked in the same way to our Chargé d'Affaires in Prague. He was to stress the viewpoint that the Czech country had become absolutely unimportant as far as danger to us was concerned.

Q. Do you mean the stress towards the Czech Government?

A. No, excuse me. Perhaps I wasn't quite clear in my expression. I meant that the German diplomatic representative in Prague, in his reports to the Foreign Office, and Herr von Ribbentrop, should express it quite clearly that the Czech country, which had melted and which was now quite reduced, was no longer a dangerous foe for Germany; and in the Foreign Office we acted in a similar manner. I don't know who had the initiative, but at any rate, during this winter, and I think it was towards Christmas, a draft for a German-Czech friendship agreement was drawn up; but this draft didn't live very long. It vanished in the files of Ribbentrop; and one didn't quite know what was being brewed up, and what Hitler's intentions were. Hitler's and Ribbentrop's headquarters on the one hand, and the Foreign Office on the other hand, were camps that were quite separate from each other. And if I speak of headquarters here, then that is in line with the language I used at that time because according to my opinion we didn't even have a government at that time but only headquarters, in spite of the fact that we were in peacetime.

* * * * * * *

Q. When did you really hear what was being planned with regard to Prague?

A. I cannot give you the exact date but it must have been towards 10 or 11 March 1939, through a Slovak call for help—or at least through an attempt on the part of Hitler to provoke such a call for help—and after that had become apparent, there could no longer be any doubt with regard to the intentions of Hitler.

Q. Well, what happened through diplomatic channels in this respect?

A. Well, if you take it in its essence, nothing was done through diplomatic channels at that time. No preparations were made. At least none by the Foreign Office. Mussolini took a nonparticipant attitude or nobody tried to make him participate. I myself, on the strength of the impression I got by this Slovak call for help, gave a hint to the British Ambassador Henderson and he understood that hint. The Poles were not called in. Everything was done over their head. So you can see that no diplomatic preparations were made at all.

Q. Your Honors, this hint to Ambassador Henderson, may I point out, can be found in book 1–C, Weizsaecker Defense Exhibit 83.* Now, in the diplomatic field, what happened in regard to Prague?

A. Nothing. Our Embassy there received instructions to play possum for a few days.

Q. But Tiso and Hacha were invited to Berlin for a few days, isn't that right?

A. Hitler had taken up direct contact with Tiso, and Hacha came to see him in Berlin. As to the manner in which the whole question was dealt with by Hitler and Ribbentrop, I had no influence on it and they didn't allow me any influence on it either. I only had the role of stagehand. During the first part of the Hitler-Hacha conversation, which has become known, I was present; but with regard to the preparation and the carrying out of the decision itself, I had been excluded.

Q. What decision was made?

A. At this occasion Hitler used the means of a blackmailer to procure himself so-called legal claim to march on Prague and that was the most decisive point; that was the irreparable turn, in Hitler's foreign policy, towards evil.

Q. And how far was that the turning point?

A. The occupation of Czechoslovakia and the submission of Czechoslovakia under a German protector had not the slightest to do any more with the autonomous right of the states and peoples. The event was a slap in the faces of Chamberlain and Daladier, and it was a breach of promise and confidence, and from that moment on it became quite apparent that every new move of Hitler's had to lead to a general conflagration. Perhaps even Prague itself could lead to such a general conflict already.

Q. What was your role in that moment?

A. In Berlin, where I was left alone with the diplomatic corps because Hitler and Ribbentrop went on a trip to Prague then, well, the only thing I had left was to sort of alleviate and smooth the shock and I must say that I preferred doing that myself than to leaving it to Ribbentrop because he would have been capable to see to it that this very occasion brought about the general conflict already. The conversation which I had with the French Ambassador Monsieur Coulondre was rather unpleasant and delicate for me, particularly because Ribbentrop had given me some, to say the least, very doubtful information concerning his verbal agreement with the French Foreign Minister Bonnet, whom he had seen about 4 months before on 6 December 1938 in Paris. Therefore, we just avoided such a breach. Now, in

* Document Weizsaecker 38, reproduced in full earlier in this section.

order to avoid a similar scene with the British Ambassador, I made a telephone agreement with Henderson that if he had something to tell me he should send it to me in writing because Hitler had prohibited the acceptance of letters of protest and Henderson understood me and we could rely on each other.[1]

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Q. Prosecution Exhibit 51[2] mentions for the first time, aspirations with regard to the Sudeten-Germans living in Czechoslovakia. This concerns a conversation between Ribbentrop and the Czech Minister, at the end of March 1938.

A. Yes.

Q. What do you know about this?

A. Well, I heard about it afterwards. I think that Ribbentrop's remarks were the outcome of the instructions given direct by Hitler to Henlein, the leader of the Sudeten-Germans, which lay about 3 days back.

Q. In this connection may I refer right away to Exhibit 59,[3] dated 29 March 1938? It is a report of a conference between Ribbentrop and Henlein at which a number of members of the Foreign Office, including yourself, were present.

A. Yes.

Q. What was the significance to you of this conference, at the time?

A. The direct instructions, if one should call them that, or suggestions had been given by Hitler to Henlein, as leader of the Sudeten-Germans, on the day before without the knowledge of the Foreign Office. One should have them at hand in order to understand the situation completely. They have not been submitted. All in all, Ribbentrop's and Henlein's remarks amounted to a maximum program for the absolutely equal rights of the Sudeten-Germans within the Czech State. The content of this conversation was the protection of the minorities and not a preparation for separating the Sudetenland from Czechoslovakia. This document repeatedly mentions negotiations which this party was supposed to conduct with the Czech Government, that is, within the State.

Q. What does the surprisingly large number of members of Foreign Office representatives at this particular meeting mean?

A. I do not know how many were there but I know, for instance, that Mr. Stieve and Mr. Twardowski were there. At any rate, the number was large; and if this discussion had been a

[1] The direct examination immediately following concerned developments leading up to the invasion of Poland. It is reproduced later in section VI E.

[2] Memorandum by von Ribbentrop, (*NG–3096, Pros. Ex. 51*) dated 31 March 1938, not reproduced herein.

[3] Document 2788–PS, reproduced earlier in this section.

matter of preparing for the severance of the Sudetenland from Czechoslovakia, this would have been much too large and unsuitable a list of participants. The very presence of Mr. Stieve and Mr. Twardowski, who were connected with the protection for minorities, proves that it was not a matter of changing the territory of the State because otherwise they would not have been consulted at all. All in all, the session was dominated by Ribbentrop's bombastic diction and it was not of any particular importance. It certainly did not have the character of a key incident, as has been claimed. But of course I was all the same distrustful because, as we learned at this meeting, Henlein in the future was still not to obtain his instructions through the Foreign Office but through strange channels which we could not control; and that was a thing which caused us to sit up and take notice.

Q. I now pass to Exhibit 52.[1] This mentions the financial support of the German-Sudeten Party by the Reich; in particular the regular financial support since 1935. Was this the first time Germany had sent money to the Sudeten-Germans?

A. Certainly not. Payments to ethnic Germans living in Czechoslovakia had been made earlier, even in the time of the Weimar Republic. Financial support of one's own minorities, living under foreign states, is a custom or right claimed by almost all countries. Of course Czechoslovakia knew that these Sudeten-Germans were being financially supported by the Reich. I am not aware that Czechoslovakia ever objected. And the amount mentioned in this document, 1,800 reichsmarks, was not so big that it would have made much difference to an organization which included something like a million people.

Q. Herr von Weizsaecker, I too, think that the sum was not very big but I think you made a mistake just now in the figure, all the same.

A. What was it?

Q. You said just now 1800 reichsmarks.

A. Of course I don't mean that. 180,000 reichsmarks, 180,000. I beg your pardon.

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Q. Herr von Weizsaecker, at the end of the afternoon's session yesterday, you spoke about the tasks which now after Prague had been occupied, remained still for the Foreign Office. You had spoken of the instructions which were to be issued to the German missions abroad according to orders. Did you cover Prosecution Exhibit 123 when you talked about that? That's the exhibit which is Document NG–3917.[2]

[1] Document NG–2782, reproduced earlier in this section.

[2] Reproduced earlier in this section.

PRESIDING JUDGE CHRISTIANSON: What book, Counsel?

DEFENDANT VON WEIZSAECKER: I don't have the book here. I can't find it.

PRESIDING JUDGE CHRISTIANSON: Book 3–B?

DR. BECKER: Yes, Your Honor, that's right.

DEFENDANT VON WEIZSAECKER: Oh yes, I know what you mean. Yes, that was the document I was referring to. Well, shall I comment on it?

Q. Yes, would you please comment in a few brief words on this exhibit?

A. Well, these instructions were sent to our foreign missions by telephone and I expected that our chiefs of mission abroad would give me their assistance in preventing a general conflagration now that the misfortune had occurred.

Q. Did you yourself have a part in the drawing up of the already-mentioned joint declaration of Germany and Czechoslovakia? But now the prosecution has already attacked this joint statement; and on page 526 of the English transcript, the prosecution stated that, if it was true that President Hacha had joined this joint declaration, he still had known that it was not really a declaration of the Czech Government because, in order to make it a declaration of the Czech Government, it would have to have been signed by members of the Czech Government. Now, the witness stated this before this Tribunal and would you tell us, Witness, how the situation was with regard to this statement?

A. It was still a declaration of the Czech Government because, as the wording and the contents show and the form of the declaration, this statement was not only signed by Hacha but also countersigned by the Czech Foreign Minister, who was also present; and the signature of the President of the State and of the Foreign Minister are the prerequisites of a solemn act of state.

Q. Now, that will do with regard to the formal side of the matter. You have already spoken about the substance yesterday and in this connection I would like to take up another point: the interrogation of the witness, Radlova; and again on page 520 of the transcript, the witness stated that through devious channels she had heard that you had refused to receive the Czech diplomat Masarik at a previous occasion and that on that occasion you had remarked that Czechoslovakia was not at all a partner in possible negotiations. Is that correct?

A. That is not correct at all. I don't know the channels, the channels of hearsay through which this information was received; but I do remember that Herr Masarik came to Berlin some time in February or March 1939 in order to go and see Herr von Ribbentrop and not me. I made certain efforts in order to make

this conversation possible. However, you could not talk about a visit of Masarik to me. That wasn't even discussed. When and where I am supposed to have made the remark that Czechoslovakia could not be a partner in negotiations is quite unclear to me. At least, I didn't make it.

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CROSS-EXAMINATION

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MR. CAMING: Witness, the day before Germany swallowed Austria, von Neurath also assured the Czechs, did he not, that events in Austria would not influence the friendly relations between Germany and Czechoslovakia?

A. I beg your pardon? Was that a question, Counsel? I think you made a statement rather than posed a question.

Q. The day before Germany swallowed Austria, von Neurath assured Czechoslovakia, did he not, that events in Austria would not influence the friendly relations between Germany and Czechoslovakia?

A. A statement of similar tenor was surely given by him, yes. But now, whether he spoke of friendly relationships or whether he said that Czechoslovakia was not to be influenced by the Austrian Anschluss—I don't remember that for a fact; but a similar statement was rendered by him.

Q. That was the handwritten statement on page 2, was it not, of Prosecution Exhibit 3514[1] that we previously marked for identification?

A. I would not be able to say whether that was the actual language of the statement that was given but something similar did take place, that is correct.

Q. Going into the Czechoslovakian issue, after the conference of 29 March 1938,[2] which you testified to on direct, whereby Henlein was assured of full German support, is it not a fact that on 23 April Henlein came out with his eight-point Karlsbad demands?

A. You are probably referring to the so-called Karlsbad declaration. The date of the declaration is no longer in my memory but it might have been around that time.

Q. The eight-point declaration. Now you had testified that at that time—that is, the period after the Henlein-Ribbentrop conference—Henlein was more or less encouraged only to pursue legitimate aims, with the backing of the Reich. Among the eight

[1] Document NG–4580, Prosecution Exhibit 3514, notes by Weizsaecker, concerning the official communique for the march into Austria, dated 12 March 1938, not reproduced here.

[2] The conference referred to was held in the German Foreign Office and was attended by Henlein, the leader of the Sudeten-German Party, von Ribbentrop, the defendant von Weizsaecker and others. For a Foreign Office record of this meeting, see Document 2788–PS, Prosecution Exhibit 59, reproduced earlier in this section.

points, is it not a fact that one of the demands was that the Sudeten-Germans be permitted to embrace Germandom and proclaim full adherence to the ideology of Nazi Germany?

A. I believe that you would do well not to speak of a Ribbentrop conference, but of a Hitler conference, which took place on the day preceding that discussion of Ribbentrop's—I think that one was on 27 March 1938, and the other was on the preceding day—because it was Hitler, before Ribbentrop did, who gave direct instructions to Henlein.

With regard to the second portion of your question, you may be correct in saying what you say but I don't know the exact details of Henlein's declaration in Karlsbad, not well enough to enable me to give you a precise answer.

Q. You testified that the weekend crisis was really the main incident that caused Hitler to determine to annex Czechoslovakia and make the necessary military preparations. Did not Canaris inform you that military preparations for Fall Gruen against Czechoslovakia were fully prepared by 22 April 1938?

A. I didn't know that—I don't know that.

Q. Is it not a fact that Hitler, several weeks before the weekend conference on 12 May 1938, met Mussolini in Italy on a state visit? Do you remember that state visit?

A. Oh yes, certainly.

Q. And you were present, were you not, when—

A. Yes, I was.

Q. You also prepared a detailed report on this conference, a detailed memorandum on this conference, did you not, about 12 May 1938?

A. Do you mean I prepared it or I drafted it, actually drew it up? Because I don't recall either as being a fact but there is a difference.

Q. Do you recall signing, on 12 May 1938, any memorandum dealing with the question of the visit of Hitler and Mussolini in Italy. Do you?

A. I don't remember it but something of the kind might be in existence.

Q. Do you remember that at this conference between Mussolini and Hitler the question was discussed of the action of Italy in the event of war between Germany and Czechoslovakia?

A. No. I don't remember. Unless you furnish me the data, I would not be able to recall it.

JUDGE POWERS, PRESIDING: Did the witness testify as to this conference on direct examination?

MR. CAMING: Yes, Your Honor, he testified that up until the weekend crisis of about 21 to 28 May, Hitler's decision was not

made in regard to the question of attacking Czechoslovakia. And this document in question, which I am going to hand to the witness, is a memorandum by him several weeks beforehand, that clearly indicates the issues involved. It is in refutation of that direct testimony.

JUDGE POWERS, PRESIDING: Dr. Becker?

DR. BECKER: I believe, Your Honor, that your question just now was as to whether the witness testified on this conference, not on the crisis. I believe that this question was not answered, Your Honors.

MR. CAMING: I am sorry, I thought you meant whether he testified on this issue; I thought you meant, Your Honor, on direct, on this very issue of when Hitler decided war would occur; and the witness said it was a result of the Czech action and the week-end crisis that forced Hitler.

JUDGE POWERS, PRESIDING: Go ahead. Go ahead.

THE WITNESS: If we want to be exact and specific, I don't believe that I said that either. I believe I remember that what I said was that, according to my feeling at the end of May—that is to say, approximately a week after the so-called week-end crisis—Hitler definitely formed the plan to solve the Sudeten question one way or the other. I think that is the approximate tenor of the language that I used.

MR. CAMING: Directing your attention to page 2 of the original, that is your signature, is it not, on page 2?

A. Yes, it is. Yes.

MR. CAMING: Your Honor, may I offer this document at this time as Document NG–5034, Prosecution Exhibit 3516?*

JUDGE POWERS, PRESIDING: Well, you may have it marked. I don't think that it is proper cross-examination myself.

MR. CAMING: The Prosecution requests that it be marked, 3516.

MR. MAGEE: May I make a suggestion, Your Honors. If the document is to be offered and they propose to use some of it, I think the witness should be asked now by the prosecution what they think, in the document, contradicts something that he said. This is quite an improper method of cross-examination, as I understand it, just to ask a question and then submit a document to the court.

MR. CAMING: I think the document quite clearly speaks for itself, with reference to the cross-examination testimony of the defendant.

THE WITNESS: No, oh no, oh no, it doesn't, not at all, I beg your pardon.

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* This document, a confidential memorandum from the defendant von Weizsaecker to the defendant Woermann, dated 12 May 1938, is reproduced earlier in this section.

DR. BECKER: Your Honors, I wish to object to this method of introducing documents and simply saying that they are self-explanatory while cross-examination is going on. I absolutely object, Your Honors. Certainly, surely, in cross-examination, if the prosecution does wish to introduce documents, then the witness must be permitted to comment on the respective documents.

JUDGE POWERS, PRESIDING: Well, of course, this little controversy among counsel shows some of the misconceptions about cross-examination. The prosecution says that it contradicts his cross-examination testimony.

MR. CAMING: I am sorry, Your Honor, I—

JUDGE POWERS, PRESIDING: You are not permitted, under the rules, to get him to testify in response to your questions and then produce a document to impeach what he said to you. The purpose of cross-examination is to test his direct testimony. That practice has been indulged in by the prosecution here right along, as I have noticed, and I don't know where they get it, it hasn't any foundation in any law that I have heard about.

MR. CAMING: I believe—I am sorry, Your Honor.

JUDGE POWERS, PRESIDING: Go ahead, go ahead with your examination.

MR. CAMING: The document is so marked, is it not, Your Honor?

JUDGE POWERS, PRESIDING: Yes, it is marked. What is the number?

THE PRESIDENT: No. 3516.

MR. CAMING: On direct testimony, Witness, you testified as to your peacemaking efforts with Attolico ever since the beginning of the Czech question about June—through June, July, August, September, up to the Munich Pact—how you and Attolico worked for peace, did you not?

A. Yes, that is correct. But please permit me to ask you a question. I have to apologize—I am sorry but I didn't quite follow what was going on. Is this document finished, or am I to pass my comment on it, or what?

Q. This document was finished, but your counsel will have an opportunity—

JUDGE POWERS, PRESIDING: It is finished for the time being. If it is admitted in evidence you will have a chance to comment on it and your counsel will be permitted to examine you with reference to it. It hasn't been accepted in evidence yet.

MR. CAMING: I believe your answer was that you worked in close cooperation with Attolico from approximately May 1939 on in efforts for peace; June, July, August, September, up to the Munich Pact. Is that not correct?

A. It was at a much earlier date that Attolico and I collaborated along these lines. I would not be inclined to restrict this to a definite series of months.

* * * * * * *

Q. I believe your last statement, Witness, was that with regard to the Czech complex you had been cooperating from the very beginning with your friend, Attolico, in peace moves and efforts to maintain peace?

A. I did not say from the very beginning. I said that I had always encouraged Attolico in favor of peace and I do not want to specify any definite time. There were times of more intensive collaboration and times when it was not quite as intensive. It may be that just in the summer months, June and July, this collaboration was not as intensive, but I cannot say that exactly, from memory.

Q. It is a fact, is it not, that in the month of June you were deliberately withholding from Attolico and from the Italian Government, full information as to the activities and plans being executed with the German Foreign Office?

A. For the sake of making sure I want to inquire what facts these are supposed to be that you say I kept back from the Ambassador?

Q. In regard to the Czech policy that you testified on, did you not direct Mackensen, the Ambassador to Rome, in June 1938, to use only generalities and reserve German freedom of action?

A. I do not know that, but the paper you gave me just now refreshed my memory. It shows that the Italian Government, at the Hitler-Mussolini meeting, showed a kind of disinterested attitude in the Czech question. It behaved, so to say as though the matter concerned it very little or not at all. You can read in this document that the Italians would not undertake military intervention if there should be a German-Czech clash, so obviously, Mussolini was behaving as though this was an operation reserved for his friend Hitler, which did not affect him very much. I could also give another reason that I assume but I dare say that would take us too far afield.

* * * * * * *

Q. When the Italian Government was endeavoring, in June of 1938, to secure its agreement with Great Britain, is it not a fact that you objected, on the ground that Italy was closely bound to German destiny?

A. You are asking me too much. I would like to see some documents. I would like to inform myself on the basis of documents or papers and then answer you.

Q. In other words, you do not remember, do you, whether in June 1938, you objected to the Italian endeavor to secure some agreement with England; is that correct?

A. Would you tell me what agreement with England that was?

Q. This was the attempt of the Italian Government to achieve, in June 1938, agreement with Great Britain with respect to common interests, such as the Mediterranean, and this pact was widely publicized. You do not remember such negotiations?

A. I know of an agreement that was once considered and which was actually concluded. But I think that simplifications in politics are something very nice but you are making it a little too simple the way you discuss these matters here. I simply cannot say anything, without having data available to me, on such a subject.

Q. The prosecution will hand you Document NG–5021, Prosecution Exhibit 3518,* a letter of 23 June 1938, personally from yourself to Ambassador von Mackensen in the German Embassy in Rome. (Document is handed to the witness.) Does that refresh your recollection?

A. Would you mind if I read it? . . . . . I have finished.

Q. Is it not correct that you felt that if Germany became engaged in Czechoslovakia, in your estimation, Italy was bound to follow German policy?

A. That is an exaggeration. In this written communication to Herr von Mackensen, I am saying in a very cautious form, that one might perhaps be right in assuming that the Italians would hardly be in a position to consider themselves as completely unconcerned in case of a stronger engagement of Germany in another direction.

* * * * * * *

Q. As I have already mentioned to you just before we started, Baron, I would like to recapitulate briefly your direct testimony from Munich to Prague; that after Munich and your participation in the Ambassadors' conferences you had no active part in the further activities with Czechoslovakia with the exception of the meeting of approximately 22 December when you saw Ambassador Coulondre. You saw Ambassador Coulondre on the guarantee question on direct orders from Ribbentrop, and it was quite a painful experience. Is that correct so far?

A. Yes, that's correct.

Q. Then you had no further important contacts in the Czech question, with the exception of attempting to assist Masarik in February and March, to no avail, until approximately 10 March

* Reproduced earlier in this section.

or thereabouts. Then at 10 March you received information partially official but primarily from unofficial sources, that the Czech question was coming to a head. Then between 10 and 15 March the Czech question was brought to a head primarily by Ribbentrop and Hitler, particularly in the two famous Tiso and Hacha conferences. Is that correct so far?

A. I think this is correct. Whether it was the 10th or perhaps one day later when I heard about developments in Czechoslovakia, I don't remember absolutely for certain. To what extent the initiative lay not with Hitler and Ribbentrop but also presumably with Hacha does not need to be investigated here.

Q. Yes, that's quite correct. Now, with reference to this period culminating in the taking of Prague, you considered this seizure of Prague by forcible methods a most disastrous turn in foreign policy, did you not?

A. That is what I said and that is my opinion.

Q. And as a consequence the handwriting on the wall became more plain—that the foreign policy that Ribbentrop and Hitler were embarking upon was leading closer to war, is that not correct?

A. That was the turning point towards catastrophe, in my opinion.

Q. Now, the period after the 10th—I am sorry. I would like to withdraw that. The period shortly after 15 March [1939]. On 15 March you had to see the various foreign diplomats and you tried to, as much as possible, smooth things over to prevent a complete rupture in diplomatic relations; did you not so testify?

A. It may not have been exactly 15 March but it was around the time of 15 March and after.

Q. When you did see these diplomats in that period you were again acting only upon express instructions from Ribbentrop which you inwardly did not agree with; isn't that correct?

A. That is correct; but of course on this occasion words were used and things happened that I decided myself; for instance, the manner in which I received the written protest of Ambassador Coulondre. This was quite undoubtedly not in the sense of Herr Ribbentrop.

Q. Now, if I understood you correctly the only reason that you personally received these ambassadors was because of your position as State Secretary; it developed upon you—and Ribbentrop so instructed you—to maintain the contacts that he did not desire with foreign diplomats?

A. That is correct. Herr von Ribbentrop, however, was not on the spot.

* * * * * * *

Q. With respect to the meeting of 22 December 1938—* at which time you saw Ambassador Coulondre of France, which we have just mentioned—in this conference, you acted upon instruction from Ribbentrop, did you not?

A. Yes, that's correct.

Q. And the only reason you were selected to receive him was the fact that you were the State Secretary, and he so ordered you to see him. Is that correct?

A. That was the rule, that he would leave it to me to receive foreign diplomats.

Q. And even if you disliked the contents of his instructions you, of course, had no choice but to execute his instructions in these conferences. Is that not correct?

A. That's not correct. I executed these orders in the way that I could best reconcile them with my conscience.

Q. Certainly, but when there was anything onerous and against your conscience and Ribbentrop told you to do it, you only did it because he had so directed you. Is that not correct?

A. In concrete instances it was like this—That I was told that Hitler did not want to give complete guarantee for the remainder of Czechoslovakia [Rumpftschechi] now, and that Hitler had already told the Czech Government, as represented by Herr Chvalkovsky, this fact. That is why it was my affair to stick to this line. I knew that Hitler would not do it; it was, therefore, in accordance with the facts which were established. If I did not agree, I told him that it might be better to defer the question.

Q. Yes. These orders that came down from Hitler as to the line to be followed were usually transmitted to you through Ribbentrop, not directly from Hitler. Isn't that correct?

A. Quite right. Yes.

Q. And when Ribbentrop laid down the general line to be followed in a fixed interview, you, of course, were obliged to adhere to that line generally in the course of your interview, were you not?

A. Herr von Ribbentrop expected me to do that; and, as I said, I carried out my instructions as I could reconcile them with my conscience.

* * * * * * *

Q. But you do remember, don't you, that later in February—say about the 22d—you, because you were State Secretary, received the Czech Chargé d'Affaires, who raised the question of the guarantee. Do you not remember that? I realize that this was a long time ago but I wonder whether you remember that

* Coulondre's report on this conference with the defendant von Weizsaecker (*2943-PS, Pros. Ex. C-328*), is reproduced earlier in this section.

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visit of the Czech Chargé d'Affaires—I think his name is Szathmary—at the end of February; near the end, about the end, about the 22d of February. He came to see you.

A. Well, perhaps it's a result of the interpretation but I didn't see any incidents; an incident in German means a pretty important event. And I think that I may have received the Czech Chargé d'Affaires, and that with reference to the question of guarantees he gave me a note, or made a suggestion, or put a question, or something of the kind.

JUDGE MAGUIRE, PRESIDING: Don't you have any recollection of that matter, Witness?

A. To be frank, I'm afraid not.

JUDGE MAGUIRE, PRESIDING: All right.

DEFENDANT VON WEIZSAECKER: But if you'll show me some documents, perhaps I could help you more.

Q. Certainly I will be glad to refresh your recollection; since it's so long ago and it's quite logical that you might have forgotten this rather important meeting, the Document NG–5357* will be handed to you. It's a memorandum dated in February, with reference to your seeing the Czech Chargé d'Affaires. Before you read it, is that your memorandum? Could you just tell me that?

A. My name is underneath, typewritten. I don't see my initial.

Q. Yes. But I mean internally speaking. That's your memorandum or a copy thereof, isn't it? Would you like to take a moment to read it, Baron? Would you kindly read it over?

A. Yes. (The witness reads from the document.)

Q. Have you finished that? The most important page, Baron, is the first page.

A. I have read the first two pages. I suppose that is what matters most.

Q. Well, you might also glance at page 3 of the original, which is a telegram sent by you to various important missions, but it more or less repeats what's on page 1; and therefore I think if you've read page 1 we can safely discuss it. I won't refer at this time to page 3, except just to point out to you that there was a telegram sent out of a similar nature.

A. Yes.

Q. Now, when you rebuked the Czechoslovak Chargé d'Affaires for applying simultaneously to the Four Powers in this question, without first entering into discussions with Germany alone, did you personally believe that the Czech Government should not have contacted all Four Powers, or were you acting again on instructions from Ribbentrop in carrying out that rebuke?

* Prosecution Exhibit 3522 reproduced earlier in this section.

A. I don't think I had any special instructions for this conversation but I knew that Hitler was not prepared to give a guarantee, particularly a collective guarantee for Czechoslovakia. Hitler had said that to the Minister, Chvalkovsky, whom I mentioned just now, not too long beforehand, and told him direct. If I'm not mistaken there is no mention in the Munich Agreement of all Four Powers giving a collective guarantee; but if I remember rightly, it says there that the two Western Powers, England and France, were already now, that is at the time of Munich, standing behind their guarantee for the remnant of Czechoslovakia; however, the question of a guarantee to the remnant of Czechoslovakia by Germany and Italy was to be reserved for a later date. There were certain conditions attached —regulations of the minority claims, claims for minorities to protest, with the Hungarian and Polish Governments. I don't think I'm mistaken that it was like that.

* * * * * * *

Q. Now, referring for just a moment to 10 March, that was 5 days before the march into Prague, do you remember that a telegram was sent by the German Counsel General in Bratislava, Druffel, that stated that Tiso had agreed to appeal to the Fuehrer for help; but that now by 10 March he was afraid of putting himself in wrong with Prague and therefore he would empower Durcanski, one of his deputies, to act in his name. Do you remember seeing a telegram like that? It was addressed to the Foreign Office. One of the routine affairs.

A. I believe that I recall a telegram that came from Bratislava and it alarmed me.

Q. May I hand this to you to see if this is the telegram that alarmed you—Document NG–5356, which we will mark as Prosecution Exhibit 3525, Your Honors, for rebuttal.

JUDGE MAGUIRE, PRESIDING: I thought you said it's Document NG–3525.

MR. CAMING: I'm sorry, Your Honor. It's Prosecution Exhibit 3525, Document NG–5356.* Thank you.

JUDGE MAGUIRE, PRESIDING: Well, you desire that marked for identification?

MR. CAMING: Yes, Your Honor.

JUDGE MAGUIRE, PRESIDING: So ordered.

MR. CAMING: Have you finished reading it? When you finish, if you kindly tell me so I won't interrupt you before you finish, Baron. Is this your initial at the bottom there—that "W"?

A. I believe so, yes.

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* Reproduced earlier in this section.

Q. And this telegram was distributed in many copies in a routine order of business, was it not, as you can see by the distribution list?

A. Yes, yes.

Q. At this time, Tiso was still Premier of Slovakia, was he not? 10 March. I think he left on the 11th, did he not?

A. I'm not quite sure what function Tiso held at the time, but you are probably correct that he was Prime Minister, State President, or President.

Q. But he still held official office at that time, did he not?

A. I believe so.

Q. Therefore, that would explain to your mind why he himself could not make the appeal and had to empower one of his other deputies, Durcanski, to make it in his name—that was your interpretation was it not?

A. I conclude that now from the telegram.

Q. And this was one of the few things that came through official channels that alarmed you that something was brewing, is that not a correct interpretation?

A. Certainly.

Q. Do you recall that on the same day, 10 March 1939, you sent out a general circular telegram to the more important missions, the German missions in Europe, in which you discussed the visits of Masarik, who called unofficially, and discussed the Czech question up to that date for information purposes for various missions. Do you recall that telegram which brought all the details up to date from, say, approximately the beginning of the month?

A. I don't remember them but it may well be that I sent out such a telegram.

Q. Perhaps if I hand you Document NG–5311 you may then remember it by having it before you. Your Honors, I would like to mark this for identification as Prosecution Exhibit 3526.* Would you kindly read that?

A. I have read it.

Q. This is your memorandum, is it not?

A. It is a telegram which bears my name and it is typewritten.

JUDGE MAGUIRE, PRESIDING: Did you send the telegram or prepare it?

A. I assume that some official of the political department drafted this document for me.

JUDGE MAGUIRE, PRESIDING: Well, what I want to find out is whether this is something that somebody had written without your knowledge or consent, or whether it was one which was sent out with your approval and knowledge.

* Reproduced earlier in this section.

A. It is evidently a telegram that I signed. At least I believe with certainty that I signed it but I cannot prove that with the aid of this document.

MR. CAMING: I assume that this information was conveyed to you as a routine matter in the course of business and that the only reason it was sent—I'm sorry.

A. You mean the information contained in this circular telegram?

Q. Yes.

A. That was probably told to me by Herr von Ribbentrop. I assume that he issued the directive that our diplomatic missions be informed along those lines.

Q. And so after Ribbentrop informed you of what had happened in these incidents since the beginning of the month, this telegram was sent out, was it not?

A. As you can see, the telegram contains a description of the mission of Mr. Masarik. Mr. Masarik was in Berlin and upon instructions of Ribbentrop and Hitler, he was sent back to Prague after he had been given a certain definite answer; and the contents of what he was told is reproduced in this informative circular telegram.

* * * * * * *

Q. Now, when you were aware of the fact that the Carpatho-Ukraine had seceded, you could fairly well predict the outcome of the Hacha conference, could you not, before Hacha arrived in Berlin?

A. I could predict that we were concerned here with the dissolution of Czechoslovak unity.

Q. Didn't you know on the 14th, before the Hacha conference, that German troops were preparing to march into the remnant of Bohemia and Moravia? That is correct, is it not?

A. That may be that I was informed about that.

Q. To further refresh your recollection, didn't Ambassador Henderson come to see you on 14 March, in the morning?

A. I received so many ambassadors and ministers that I cannot tell you whether I saw Henderson on 14 March, in the morning.

Q. Well, I will hand you NG–4844, Prosecution Exhibit 3532,* to refresh your recollection. This is a memorandum by Woermann describing your visit by Halifax—

JUDGE MAGUIRE, PRESIDING: Halifax?

MR. CAMING: I am sorry, Your Honor, by Henderson.

(Document handed to witness.)

* Reproduced earlier in this section.

A. I have read it now.

MR. CAMING: That is a fairly accurate reproduction of your conversation with Henderson, is it not?

A. I assume so, yes. But if my own notes were available here, it would be even more clear.

Q. I have a document that goes with this, I see, that was written by you on 17 March, that may clarify it for you, Document NG–4842. I offer it as Prosecution Exhibit marked for identification 3532, NG–4842.[1]

JUDGE MAGUIRE, PRESIDING: You want to make this a part of the previous document for identification, or a new number?

MR. CAMING: I think that might be an excellent idea, Your Honor, since they tie together. We will mark that as part of 3531.

JUDGE MAGUIRE, PRESIDING: NG–4844 has been marked Exhibit 3532 for identification, and I take it you marked Document 4842 as part of the same exhibit for identification. It will be so marked.

MR. CAMING: It is so offered, Your Honor.

DEFENDANT VON WEIZSAECKER: I have read it now.

MR. CAMING: When you received Henderson on the 14th, the day that the Hacha conference occurred, on that evening you told him that a military invasion could also take place in a decent manner, did you not?

A. That is not the way I expressed it. The exact text of my statement is reproduced in Nevile Henderson's book, "Failure of a Mission."[2] If I am to reproduce here from memory what I know about it, I could do so.

Q. Do you remember mentioning to Henderson at that time, from your remembrance, that you stated that the military invasion could also take place in a decent manner, as stated in your memorandum, which is NG–4842, part of Prosecution Exhibit 3532?

A. I expressed myself a little differently. Am I to tell you what the conversation was?

A. Yes, if you would like to, very briefly, but isn't it reproduced here fairly accurately in Document NG–4844?

DR. BECKER: He has already said just now what he knows about it. This question is a repetition. The witness has already said it is not accurately reproduced. Now the question has been asked again. I think this delays the proceedings unnecessarily.

JUDGE MAGUIRE, PRESIDING: Proceed.

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[1] Document NG–4842, as well as Document NG–4844, were received in evidence as Prosecution Exhibit 3532. Both documents are reproduced earlier in this section.

[2] See Weizsaecker Document 37, Weizsaecker Defense Exhibit 82, reproduced earlier in this section. This exhibit contains all the extracts from Henderson's book which were offered as part of that exhibit by the defense.

MR. CAMING: You may proceed.

A. I believe the course of the conversation about this point was as follows: Henderson inquired what was brewing, and he referred me to the fact that he had invited two British Ministers to come to Berlin for the next Friday—that I happen to remember—and at this point I advised him that he had better not invite these two gentlemen because the moment was not very propitious for such a visit, and then Henderson asked me: "What is going to happen to Czechoslovakia?" Then I expressed my fears and apprehension to him that a somewhat critical solution was imminent and Henderson replied: "I hope you are going to do that in a correct manner." He then proceeded to ask: "Are German troops going to participate in this action?" Then I said to him in an evasive manner: "We are going to try to solve this affair in a decent manner." But he then insisted and asked: "Are German troops going to participate?" And then I again somewhat evasively answered: "German troops always conduct themselves decently." Henderson construed this diplomatic expression which was nevertheless quite clear and he understood it, as he expressed it in his book: "Weizsaecker could not tell more and he could not tell less." That is what I remember about this affair.

Q. It is true though, as also mentioned, that among other things you declared that the Munich Pact had aimed at and had achieved peace at the time in Munich and the rest was a thing of the past, as a factual and practical matter, I assume?

A. I beg your pardon, where is that to be found?

Q. I don't have the Henderson book in front of me now. Document NG–4844, it is page 2, I believe it is the first paragraph, states "When Henderson mentioned the Munich Agreement the State Secretary remarked that the Munich Agreement aimed at," and so on. And then the tenor of your conversation is also recorded in Document NG–4842, tying the two documents together.

JUDGE MAGUIRE, PRESIDING: What are we waiting for? Did the witness answer that?

MR. CAMING: I was waiting for his answer.

A. I understood that I am being asked about the contents of a document which, unfortunately, I don't have in my possession.

JUDGE MAGUIRE, PRESIDING: Let him have the document back. Let's move along.

MR. CAMING: Will you give him NG–4844?

(A document was handed to the witness.)

THE WITNESS: Oh, no, he gave me another one.

JUDGE MAGUIRE, PRESIDING: It is Exhibit 3532 for identification. It is a matter to which the witness' attention is called, at the bottom of page 2 of the original.

MR. CAMING: The next to the last sentence.

THE WITNESS: Could you please repeat the question to me?

MR. CAMING: You told Henderson that the Munich Pact was now a thing of the past, did you not, during the course of that conference?

A. It may be that I said that but I have not yet found the place. Yes, this I did.

Q. But you have no personal remembrance of the conference on that point?

A. I remember the conversation but I have no definite recollection about this point.

Q. Very well, we'll pass on. Before Hacha came to Berlin, you knew, did you not, that German troops were about to march in and occupy portions of Czechoslovakia prior to the arrival of Hacha in Berlin?

A. The fact that German troops were ready I knew but I probably did not know when they would cross the border.

Q. You were aware, however, that the fate of Czechoslovakia was sealed before Hacha came to Berlin, is that not correct?

A. I feared that, yes.

* * * * * * *

Q. Is it not a fact that you were officially informed that Hitler, upon the pretext of preserving order in Central Europe, was to present his *"fait accompli"* to Hacha when Hacha arrived at the conference—isn't that correct?

A. He certainly would have voiced such utterances—certainly.

JUDGE MAGUIRE, PRESIDING: Well, that wasn't the question. The question is whether you knew about it before the conference. If that was what Hitler proposed to do.

A. I believe that I knew that on the day when Hacha arrived. I was informed that in some manner Hitler would divide the Czech State and would bring the remaining part of Czechoslovakia under Germany's protectorate; or I knew of some such pretext or excuses.

MR. CAMING: You obtained this information from Ribbentrop, did you not?

A. Probably, but also from other sources.

Q. Other sources within the Foreign Office—within the course of your business—isn't that what you mean?

A. It may be that Mr. Gaus told me about it. It may be that military personages gave such information to me from outside my office.

Q. Perhaps if I hand you document NG–4845 it will refresh your recollection as to your having official knowledge. (Document handed to witness.)

MR. CAMING: I believe, Your Honor, that is to be marked as Prosecution Exhibit 3534,* is that correct?

THE PRESIDENT: That is correct.

MR. CAMING: Thank you, Your Honor.

Would you kindly read that telegram that you sent to all diplomatic consular representatives, the more important ones, and then let me know when you are finished, if you please?

A. I have read it.

Q. That is your initial on the second page, near your typewritten signature, date 14 March, is it not?

A. Yes.

Q. Baron, this was sent out on 14 March for the information and guidance of all diplomatic and consular representatives who received this telegram, was it not?

A. Not to all representatives, but to all those who are listed in the enclosure and I signed it. Of course, it must be understood that this is not my opinion that is expressed here but that there were instructions about this.

Q. In this case you merely sent out the telegram because you were the State Secretary and it was one of your functions, as State Secretary, to inform the various missions of matters of this type, is that correct?

A. Yes. It is part of the group of those speech directives and matters of information that I had to undertake upon instructions from Ribbentrop.

Q. Baron, I think there will be no other questions on that document at this time. I believe you stated that you did attend the first part of the Hacha Conference, on the evening of the—well, late evening of the 14th, the beginning of the 15th, the morning of the 15th; isn't that correct?

A. That is correct.

Q. You were more or less there in your official capacity on request of Ribbentrop, is that not so?

A. I assume that Ribbentrop and Hitler had determined who should be present at that conversation. At any rate, I was given the instructions by Ribbentrop.

Q. Now, Baron, this conversation lasted until about 5 a.m. About what period of time during that conference were you present? The first half hour, the first hour, or how long would you say you were present, as far as you can recall?

A. Yes, I would say I was present during the first half hour, or first 45 minutes, as long as there was a group of people still

* Document NG–4845, Prosecution Exhibit 3534, a telegram of 14 March 1939, is reproduced earlier in this section.

surrounding Hitler, and I was part of that group of approximately ten people.

Q. And after that you left the conference; is that correct?

A. The conference dissolved, or this meeting disintegrated into individual groups of people conversing with each other in separate rooms.

Q. Were you aware of what was going on in the conversations between Hitler, Hacha, and Ribbentrop—and others who were in the other, more select group during the time of the conference?

A. Some information filtered through, but I didn't listen to it myself.

Q. Is it correct that the agreement was reached, finally, with Hacha about, oh, perhaps 5, 5:30, 6 o'clock in the morning of 15 March, somewhere around that time?

A. Yes. That is correct.

Q. Now, I know it is very difficult to remember all the small incidents occurring so long ago, but perhaps you can remember, on this momentous occasion, an instruction that a telephone call be made at 4:30 a.m., during the course of the conference, to von Druffel, the Consul General in Bratislava. Do you remember that you gave instructions to telephone him?

A. I don't remember that but it may be.

Q. Well, perhaps if I hand you Document NG–5304 it may refresh your recollection as to this call; and I will also at the same time hand you NG–5361, which was a reply, so as to let you see the whole picture, and perhaps it will refresh your recollection.

Your Honor, while we are pausing now, we might mark for identification NG–5304 as Prosecution Exhibit—

THE PRESIDENT: Do you want to put in the reply with it as one document?

MR. CAMING: Yes, Your Honor, we might put them together as one document.

THE PRESIDENT: Very well. They will be marked for identification, then, as 3535.*

MR. CAMING: Yes, Your Honor.

A. I have read it now.

MR. CAMING: Your Honors, I believe the correction has been made, but on Document NG–5361 it states "at 4:30 a.m.," after the word "Altenburg." "The instructions communicated to me at 4:30 a.m." Those words have been omitted. Is that in your copy?

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* Document NG–5304, the note by von Weizsaecker on the telephone call to von Druffel, and Document NG–5361, were both received in evidence as Prosecution Exhibit 3535, and both are reproduced earlier in this section.

THE PRESIDENT: That has been added to the exhibit we have here.*

MR. CAMING: Thank you, Your Honor.

You have read it, have you not?

DEFENDANT VON WEIZSAECKER: I have read it.

Q. Now, does this refresh your recollection that during the course of the conference you had the Slovak authorities notified that for military reasons the Germans would begin their occupation at 6 o'clock in the morning? That was before the conclusion of the Hacha agreement, is that not so?

A. I cannot fix the exact hour when it was concluded but it was around the time when it was known that Hacha would be ready to sign such a paper. But I don't want to pin myself down to exact hours during that night.

* * * * * * *

Q. You mentioned in direct examination that several days later you had telephoned Henderson and said that it was of no use at all to enter into a personal discussion on the Czech question, did you not?

A. I don't remember by heart the text of my direct examination, but it is approximately correct the way you have stated it.

Q. And you also suggested that he not bother to send a note, since it would be of no value. In this part of your talk with Henderson, were you again acting on orders from Ribbentrop?

A. Not altogether, no. I exceeded my instructions. Ribbentrop had issued a directive to me not to accept any protests and he said that Hitler had stated that. And I told the British Ambassador over the telephone that if he had anything to hand over in writing, he should submit it to me by courier or by mail, instead of bringing it to me in person.

Q. Did you first suggest, though, that he not send you a note at all, which was rather an unusual diplomatic step to take?

A. It may be that the conversation began first by my suggesting to Henderson that it would be best not to send any note at all, since Ribbentrop had suggested that, but later I added if he absolutely had to, he should do it in writing and not personally.

Q. Now, you mentioned that in doing this you had more or less exceeded to a certain extent your instructions from Ribbentrop, but of course you promptly reported to him that you had done this in telephone conversation with Henderson, didn't you?

A. I don't know that—

Q. Pardon me?

A. That is improbable but I don't know it any more.

* The reference is to a technical error on the early copies of the translation. As the remark by Judge Maguire shows, the Tribunal had already received a correction of this error.

Q. I will hand you Document NG–3906.

MR. CAMING: I believe, Your Honor, that is 3538.*

PRESIDING JUDGE CHRISTIANSON: That is right.

MR. CAMING: Thank you, sir.

(Document handed to witness.)

MR. CAMING: Will you kindly let me know when you finish reading it, Baron?

A. Yes. I have read it.

Q. Now, just to refresh your recollection—perhaps it does, after reading this—the telephone call was made at 1430 hours that afternoon, isn't that correct? And yet on the same day you informed Ribbentrop about the call?

A. Yes. I can see that from here, too.

Q. Turning aside from this document a minute and going into a last series of questions on Czechoslovakia, going back for a moment: Ever since the Munich Pact both Hitler and Ribbentrop considered it Germany's right to organize central and southwestern Europe as they wished, isn't that correct?

A. Will you please repeat it? (Question repeated by German interpreter.) I believe both of them never bothered very much about the opinions of third parties and without reason you were, in that case, maybe correct.

MR. CAMING: Apparently there is some difficulty in this question being translated that the one word in German is identical. Would you help me, Mr. Becker?

DR. BECKER: I believe the difficulty exists because the German word "sie" if it is spelled with a small letter means various persons, while if it is spelled with a capital letter it means only one person, namely "you", the witness, but in English these are two different words and therefore a misunderstanding, although the translator was quite correct in this instance. Perhaps you might rephrase your question.

MR. CAMING: It is a fact, is it not, that ever since the Munich Pact, Hitler and Ribbentrop more or less considered it Germany's right to organize central and southeastern Europe as Germany wished without interference from third powers?

A. That is probably correct, perhaps with one small limitation, Ribbentrop reserved that for himself. He believed that he got freedom of action already promised by the French in December 1938.

Q. In the period prior to the fall of Prague on 15 March, this version of the Munich Pact found expression even in the German press, did it not?

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* Document NG–3906, Prosecution Exhibit 3538, a memorandum of the defendant von Weizsaecker dated 18 March 1939, is reproduced earlier in this section.

A. That is very possible.

Q. You, yourself, throughout this period, shared the same state of mind as Ribbentrop, didn't you?

A. I did not share that opinion.

Q. Is Ambassador Coulondre incorrect in making the following statement, to the best of your recollection, after speaking about the right of the Reich to organize central and southeastern Europe as she wished, he states, and I quote from report number 80, on 19 March 1939: "I myself have more than once noted the same state of mind in Herr Ribbentrop and Herr von Weizsaecker, both of whom have expressed a certain astonishment whenever I have drawn their attention to the fact that France, as a great European power, intends to be consulted in all that pertains to Europe."

A. About what period are you now speaking? When was this conversation with Coulondre to have taken place?

Q. Coulondre stated that on several occasions prior to Munich —time and again he had, prior to 15 March 1939—that he had discussed this question with you and with Herr von Ribbentrop. Does that refresh your recollection among the several occasions that you saw Coulondre prior to 15 March?

A. Before what period?

Q. Before 15 March 1939.

A. It is certain that I saw Coulondre repeatedly during that time and I am sure that the opinion you have described was transmitted by me to Coulondre as being Ribbentrop's point of view.

* * * * * * *

DR. KEMPNER (continuing the cross-examination): Herr von Weizsaecker, I would like very briefly to submit a few questions to you concerning matters of a general nature. First of all, concerning the career that you had in the Foreign Office. When did you enter the Foreign Office?

A. In January 1921, which is the date I became an official.

Q. Did you have to pass a legal examination?

A. No.

Q. Did you have to pass an entrance examination on matters of diplomacy?

A. It was waived in my case, in view of certain reports rendered by me from Holland, where I had been a naval attaché.

Q. Is it right to say that both Hitler and Ribbentrop signed your appointment to the function of State Secretary in 1938?

A. Yes, of course. It was a matter of course that Hitler signed it and Ribbentrop countersigned.

Q. Recently you described your position as that of a permanent secretary in the German Foreign Office. Did you serve

under any other Ministries or State Secretaries except Ribbentrop?

A. I beg your pardon; I didn't quite get your question.

Q. Were you State Secretary serving under any other Minister except Ribbentrop?

A. No.

* * * * * * *

Q. In your direct examination you talked about your cooperation with foreign friends of peace and of resistance; that is correct, isn't it?

A. Yes.

Q. Were you in touch with the Badoglio group in Italy?

A. No.

Q. The people who fought Mussolini?

A. No.

Q. Were you in touch with the Dutch, Belgian, or French underground movements?

A. No. That is quite a different subject. My resistance work was directed toward internal conditions. I did not endeavor to promote the defeat of Germany; I would never have done that.

Q. You were in favor of the German victory?

A. No. I was for German peace; that is peace in Europe.

Q. The Pax Germanica?

A. What I wanted was solid, lasting peace under a democratic German Government, in Germany.

Q. Now, when you were Hitler's ambassador with the Vatican, were you in touch with Allied governments on behalf of the resistance movement in order to bring about a swift end to the war?

A. The resistance movement did not give me any orders, but I gave it information; and I had to see to it that the allies should be prepared to put bearable conditions to Germany without Hitler and, with these conditions, encourage the suitable persons, especially among the generals, to take the inevitable and necessary steps.

Q. Do you know that the [present] deputy Bavarian Premier, Josef Mueller,* had resistance contacts with the Vatican?

A. That is known to me.

Q. And that he carefully avoided making contact with you?

A. That is quite possible. In any case, I considered a discussion between the persons concerned to be very dangerous. That was just the difference between myself and many members of the resistance movement, that there was too much talk.

* * * * * * *

* Josef Mueller, deputy Minister President of Bavaria, 20 September 1947 to 26 July 1949.

Q. In your examination before the IMT[1] in the Raeder case, did you say a single word in connection with your resistance activity?

A. I don't think so. I wasn't asked about it.

Q. When you gave affidavits for any friends or subordinates, for denazification purposes, did you mention anything of your own connection with the resistance movement?

A. I don't know, but I am not of the men who boasts about himself.

Q. But wouldn't that have been important in order to show your own position to the addressee.

A. I don't like putting myself in the limelight.

Q. Like other persons from Rome, for instance Mussolini himself, did you send any memoranda to Berlin in order to prevent the execution of Count Schulenburg,[2] the member of the resistance movement? Did you try to prevent his execution?

A. No. And in any way this question is quite immaterial.

Q. I am asking you whether you did this or not.

A. No.

Q. Out of your salary did you pay out any money for the resistance movement, for matters connected with resistance, for the support of the 20th of July people?

A. I don't remember. I was out of the Reich.

Q. That would have made it easier; did you or did you not?

A. I don't think so.

Q. Did you give food to people connected with the resistance movement; ration cards or other support in kind when you were in Rome?

A. I don't know but you must ask my wife.

Q. The Gestapo, at this time of the 20 July 1944 incident, arrested many resistance members and their families. Is that correct?

A. I was at the Vatican. I couldn't see it myself but of course I know that.

Q. Men, women, and children.

A. Yes, naturally, naturally.

Q. Were the members of your family who were in Germany at that time arrested or was your property seized at the time?

A. My property was not seized. My family, some of my family, were in some critical situations.

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[1] Von Weizsaecker testified before the IMT as a defense witness for Admiral of the Fleet Raeder on 21 and 22 May 1946 (Trial of the Major War Criminals, vol. XIV, pp. 277-297). Von Weizsaecker was indicted in November 1947.

[2] Count von der Schulenburg was the German Ambassador to Moscow before the German invasion of the Soviet Union in June 1941. He was executed after the attempt on Hitler's life on 20 July 1944.

Q. Were your children in any way interrogated by the Gestapo or similar institutions on this occasion?

A. I don't know.

* * * * * * *

Q. Isn't it a fact, Mr. Weizsaecker, that in autumn 1941, you pointed out in very sharp terms to the military people that peace was only possible if Germany was unshaken in the military sense; and that otherwise Germany was lost and not only Hitler?

A. Unshaken?

Q. Yes, unshaken.

A. Yes, I am sure I said that once; that was my opinion. My opinion was that peace without Hitler, but a peace which would calm Europe would only be possible as long as Germany was still a power, that is, unshaken. Quite right.

Q. Isn't it a fact that when the German diplomats returned from South America and the United States in May 1942, you publicly expressed the following opinion: Here in Germany you will hear no gossiping around the fireside; here you will find initiative, decision, orders, blows, against the enemy. We are directed just and only to the Fuehrer. His will is ours; his consciousness of victory is our consciousness of victory. Did you say that in public?

A. May I ask what you are quoting from?

Q. May I first ask for an answer whether you did say that publicly?

A. I don't think I expressed myself like that; I don't think so. That is not my style but if you can show me a document—

Q. I am giving you a newspaper report of that time where these words are quoted as being yours. It is on the second page, Mr. Weizsaecker.

A. I don't think I need read it.

Q. I want to have this marked for identification as 3609.*

JUDGE POWERS, PRESIDING: It will be so marked.

DEFENDANT VON WEIZSAECKER: You want me to comment?

DR. KEMPENER: Yes, please.

A. Yes. Well, you have once shown me a newspaper report of a speech of mine which was completely wrong, on the occasion of Mr. vom Rath's funeral.

Q. This is wrong again?

A. I think that this is partially wrong because there are flowers of style in it which are definitely not mine; but I greatly regret that I didn't make many more such speeches because then I would have got much nearer to my true aim. Then they would have taken me for a reliable person in the Third Reich.

* Document NG–5375, Prosecution Exhibit 3609, not reproduced herein.

Q. Mr. von Weizsaecker, isn't it a fact, and don't you know that as a result of this speech, the entire resistance movement turned you down?

A. That is a slight error on your part. That is a slight error. I know where you got this assumption from—you got it from Mr. von Hassell's book.*

Q. Quite right.

A. And about 4 or 6 weeks before this speech I talked to Mr. von Hassell, with whom I was very friendly. Unfortunately, we had a quarrel, as can occur in such difficult affairs as we had together at that time. It hinged on the secrecy, about discretion, which I think I adhered to more than Hassell did. On this point we had a disagreement.

If you read through this book you will see from that day on everything that I did no longer suited Mr. von Hassell. In the resistance movement, I was in the habit of keeping up contacts through other and different channels in spite of this painful disagreement.

Q. So Mr. Hassell and other resistance fighters, on 20 July, went to their death having a completely wrong opinion of you?

A. I don't know.

Q. Thank you. That is all.

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REDIRECT EXAMINATION

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DR. BECKER (counsel for defendant von Weizsaecker): In the course of the interrogation you were asked about eighty-one documents, which the prosecution identified in connection with aggressive war. They asked you about many details. As a result you were, first of all, asked whether you remembered this or that incident, this note, that visit, the other memorandum of such and such a date. Always without exception—that is, in the vast majority of cases—you stated that you did not remember. Can you explain this fact?

DEFENDANT VON WEIZSAECKER: Dozens of such papers would reach me every day. The documents submitted, as a rule, call up certain memories. One remembers the atmosphere of that time and one's own general attitude and line of thought in connection with it. The document books of the prosecution I have had to look at for a long time before I succeeded in reconstructing and putting

* Ulrich von Hassell was German Ambassador to Rome, 8 November 1932–17 February 1938. He was executed after the unsuccessful attempt on Hitler's life on 20 July 1944. Von Hassell kept a diary and parts of it were offered in evidence by both the prosecution and the defense (Document NG–5759, Pros. Ex. C–288; Weizsaecker Def. Ex. 60, 84, 107, 117, 129, 165, and 407). These documents are not reproduced herein. The diary is quoted and discussed in the judgment of the Tribunal.

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together the various incidents; but I did remember how such decisions were made—where I, on my own responsibility and in accordance with the dictates of my own conscience, had to decide one way or the other. Otherwise, in the main, I remember the general line of the heads of the government and my own general line.

Q. In this connection, since the Court has stated to you that you had a better memory during direct examination than during the cross-examination,* may I ask whether in the course of the documents submitted to you by the prosecution, when you read them for the first time it was the same as in cross-examination here? I don't think that I expressed myself very clearly. I mean, when you read the documents which the prosecution submitted in your case in chief, was it exactly the same, as it was here in Court when new documents were submitted to you?

A. Quite right! First of all, I had to read slowly and think myself back into the situation; and if I had had more time to study the documents newly submitted to me yesterday and today, I imagine that after studying them for some time, I could have contributed much more.

Q. In cross-examination you were then asked about conversations with foreign diplomats. With regard to the technical aspects of these conversations and of the notes you made of these conversations, can you tell us something of a general nature? I think that that would save us the trouble of going into detail with respect to a number of documents submitted here.

A. I have tried to explain these discussions first of all with the help of notes shown to me; but to avoid misunderstandings and to refer to my direct examination, for instance in notes for Ribbentrop or such notes which he only received for his information, I have necessarily shown my attitude in more severe form. Perhaps I may explain it by the following: One must compare my reports to Ribbentrop and those to foreign diplomats in the Yellow

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* Reference is made to a remark which Judge Maguire made in ruling upon a defense objection interposed during the cross-examination of the defendant on 17 June 1948, concerning developments in Poland. The relevant excerpt from the transcript (*p. 9050*) reads as follows:

"Q. (by MR. CAMING) Do you recall sending, in July, a telegram which stated that not sufficient propaganda had been used on the Polish question to the missions in various countries such as Switzerland?

"DR. BECKER: May I object? I really believe it is useless to remind the witness of individual telegrams. We have heard already from witnesses and through other sources, how many telegrams passed through his office every day, and that among those many hundreds of telegrams some were written in that form. If the telegram is available, I ask that it will be shown to him, therewith also complying with the rules laid down by the Tribunal this morning.

"JUDGE MAGUIRE, PRESIDING: Well, this is cross-examination, Counsel have the right to search the witness' powers of memory. He testified a great deal from memory on his direct. I don't think it is necessary to over-play the matter but I think perhaps we have gotten about as far along on the subject as is necessary. It would seem quite clear that the witness' memory is apparently not good on cross-examination."

and Blue Books and so forth, which contain the contents of these reports. There one will see, that my language, which I put perhaps into somewhat dramatic form for Ribbentrop's benefit, was generally not considered to be too dramatic by those foreign diplomats. In these notes concerning diplomatic conversations I often intentionally and more or less literally included instructions I had received previously, leaving myself enough leeway to enable me to say those things which were personally important to me. I don't know if that answers your question.

Q. Yes. Perhaps I may ask something else. From what point of view did the foreign diplomats make their notes. Did they actually take down the conversation as it took place?

A. As far as I could check afterwards, it was natural that they could report about the contents of our conversation in a more accurate manner than I had done. Undoubtedly, the Italian envoy Attolico moved furthest away from the actual contents of our conversation because I talked to him most intimately. With Henderson too, I was on very good terms and he reported home obviously more frankly. The Frenchman Coulondre, whom I knew less well, reported our conversations more officially. So I think one can hardly make a general rule.

Q. If I remember rightly, there were one or even two of the reports on conversations where in some form or other you pointed out that you made certain remarks personally; that is, on official report we find the remark, "I told Minister so-and-so that in this respect I was only speaking for myself." Does such a remark now mean that in this case you were expressing your real opinion?

A. No. It doesn't mean that. In our language, in diplomatic language, such an expression meant that it was a piece of information from the State Secretary to the ambassador concerned, but that it was not the official standpoint of the German Government.

Q. I think that clears up that point. Now, in cross-examination, a whole number of documents were submitted to you. First of all, of the documents connected, I would like to discuss documents connected with the Prague crisis; this is not the Sudeten crisis, but the Prague crisis. I would like to turn away from the documents and toward the actual political reality. What was the situation at the time and was there any hope that anybody would effectively help the remnants of Czechoslovakia which were concerned in all this at the time?

A. I don't know of any State or any institution. The League of Nations was only a phantom by that time. I say I don't know anybody who would have prepared in March 1939, to come to the aid of the remainder of Czechoslovakia.

Q. How did England and France—had England and France not expressed the opinion at Munich of guaranteeing the remainder of Czechoslovakia?

A. I think it was like this. Great Britain and France, at Munich, said—and stated in writing—that they would stick to the intention promised a fortnight or so before guaranteeing Czechoslovakia; but I do not think that any actual written instrument, any political instrument, had been concluded between Great Britain and France on the one hand, and Czechoslovakia on the other, in this respect.

Q. Did you, at the moment of the Prague crisis, have the impression that Paris or London was seriously prepared to march for the sake of Prague?

A. I did not have the impression, that is, the impression varied somewhat. The first reaction of Great Britain was a statement by the Prime Minister in the House of Commons, and this was completely attuned to peace. A few days later Neville Chamberlain made a speech, I believe in Manchester, which struck a somewhat sterner note but there was no indication of any readiness to intervene.

Q. And what about Russia, Czechoslovakia's old friend?

A. The Russians obviously weren't prepared either. If I am not mistaken the Czech-Russian alliance said that the Soviet Union was prepared to aid the Czechs in such a situation provided that France took the first step. I hope I remember it correctly. But after the Munich Agreement, Russia was most disappointed with the Western Powers and, I am convinced, was certainly no longer prepared to do anything practical for Czechoslovakia.

Q. The international situation being as you described it just now, what did you do against the threat against the remaining part of Czechoslovakia?

A. I stuck to what was possible because politics is the art of the possible. There was not the slightest prospect that anybody would seriously oppose Hitler in this situation. The only thing that remained to be done was to attempt to avoid a general European conflict with all its consequences.

Q. Herr Weizsaecker, is it correct that—

JUDGE MAGUIRE: Just a moment, I didn't quite understand that last answer.

DR. BECKER: I will ask that the witness repeat the answer; I think that it will become clear.

A. What I meant was nothing could be done to save the remainder of Czechoslovakia because nobody was prepared to help. What could still be done was to absorb the shock to such an

extent that a general European war did not break out as a consequence.

JUDGE MAGUIRE: May I ask you—pardon me. May I ask a question here? I understood you to say that nobody was prepared to oppose Hitler and, therefore, your efforts were directed to maintaining European peace. It seems to me to be a *non sequitur* there. If nobody was going to oppose, then what breach of peace did you expect?

A. That is correct. I understand what you mean, Your Honor, but the result of the way in which the question was further treated was such that in my opinion a breach might still have resulted; for instance, from the refusal to accept any protests, as was ordered, and this led to a somewhat unfriendly conversation between the French Ambassador and myself, as I have described it here. It came almost to a point of breach when he said to accept a protest was a matter of course; the inevitable function of a Foreign Office with regard to a foreign ambassador. And, if I would not have accepted it, in my opinion a very abrupt action would have resulted; not so much because of Hitler's action towards Prague, but because of the nonacceptance of the French diplomatic action. And in England—as I hinted just now—in the course of a few days, the tone after a few days had become more acute. Churchill, too, in his autobiography describes how he was working to get the British Government to take severe measures; so the European situation, it seemed to me, was still endangered after Prague.

JUDGE MAGUIRE: Just one other question. Before Hitler marched into Prague, did you want any one to oppose him among the European powers?

A. A diplomatic discreet warning of the situation, I would have considered useful; but not open resistance.

JUDGE MAGUIRE: Thank you.

DR. BECKER: Herr von Weizsaecker, I would like to follow up with this question. Is it correct that before Prague you would have welcomed any effective pressure on Hitler by foreign powers?

A. Not of a public nature but of a diplomatic discreet nature.

Q. You would not have considered public pressure to be effective?

A. I think it would rather have resulted in the opposite to what I wanted.

Q. Now, after the occupation of Prague, did you intend—I will withdraw the question and rephrase it. You said just now that after the occupation of Prague you were endeavoring to create a friendly atmosphere.

A. Yes.

Q. Did you then fear that a more severe attitude might develop on the part of the Western Powers, or did you think that the situation might grow much more tense on Hitler's side, too.

A. May I ask what period of time you are thinking of now?

Q. The time immediately after occupation of Prague.

A. Immediately afterwards?

Q. Yes.

A. Well, a more severe attitude certainly was to be expected from Hitler by the way in which he coped with objections from London and Paris.[1]

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KEPPLER[2]

DIRECT EXAMINATION

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DR. SCHUBERT: (counsel for defendant Keppler): I now come to another sector of your work in foreign politics. That is Slovakia. I would like to point out in particular that we are not dealing with Czechoslovakia but with Slovakia; that is, a part of Czechoslovakia. My documents on the subject are in [defense] document book 4. Who gave you this assignment for the first time, Herr Keppler, and when—this assignment to deal with Slovak matters?

A. Toward the end of 1938—I don't know the exact date, I think it was about November or December—the Fuehrer invited me to a social function in Munich. On this occasion the Fuehrer took me aside and gave me instructions to inform myself about Slovak matters and to keep informed so that I might be ready at any time to be used in this matter. The Fuehrer spoke at some length about Slovak conditions. He reported that there was a certain amount of unrest in Slovakia. The Slovaks had wanted independence for a long time, especially the so-called Hlinka Guard, which was led by the Catholic priest Hlinka. The Fuehrer pointed out that this independence movement was especially supported by the Catholic clergy and that Slovakia was almost entirely Catholic and that, therefore, the whole people had really already joined the movement. The question had never

[1] Further extracts from the testimony of the defendant von Weizsaecker, principally concerning the events leading up to the invasion of Poland, are reproduced later in section VI E.

[2] Complete testimony is recorded in mimeographed transcript, 16, 19–21 July 1948; 1–3 September 1948; pages 12537–12562; 12761–12809; 12859–12884; 12891–12949; 13016–13038; 13043–13044; 19267–19336; 19521–19621; 19694–19737.

Additional extracts from Keppler's testimony are reproduced earlier in sections VI B and VI C this volume and in volume XIII, section IX E 4.

become acute before because the position of Prague with respect to Slovakia had been too strong; but now that the giving up of the Sudeten territory meant a considerable weakening of Prague, the question had again become topical. It was not a matter of temporary unrest in Slovakia but the unrest would continue and the efforts become ever greater.

Q. If I understood you correctly, your task was to inform yourself. How did you set about doing that?

A. Well, I got hold of the information available in the Foreign Office about Slovakia. On some matters I got telegrams from Slovakia but not in the main. Herr Veesenmayer had helped me with Austrian matters and I sent him to Slovakia for information; and on the basis of other information, literature and so on, I tried to find out about the Slovak question.

Q. Herr Keppler, did you have any assignments to support or encourage the independence movement in Slovakia?

A. No. I had only the assignment to keep informed about Slovak conditions, so that I might be ready to be used at that time.

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Q. In order to avoid misunderstandings, Herr Keppler, these autonomy matters in Slovakia did not concern you personally in any way, did they?

A. I had nothing to do with it. I only mention it because I think it is necessary in order to enable us to understand what happened afterwards.

Q. So the Slovaks had their autonomy. Did that put an end to the tension between Prague and Bratislava, or did tension continue to exist?

A. The tension was not removed as a result because the Slovaks considered this yielding by Prague to be only a sign of weakness and now wanted to achieve complete independence. Bratislava was rather obstructive. For instance, the Slovak Parliament one day decided that its presidium was not to be sworn in in Prague and that, of course, led to grave differences; and then one day the Benes group—Benes was no longer president in Prague—got the upper hand again politically and on 10 March, Czech soldiers and two Czech police regiments were sent to Bratislava. The Tiso government was deposed and the executive power was given to the Czech divisional commander in the neighboring town, Banska Bystrica. A similar *coup d'etat,* if you can call it that, had taken place a few days before in the Carpatho-Ukraine. There, too, the Woloschin government had been deposed by Prague and a Czech general had been entrusted with government.

Q. You just mentioned the date of 10 March. To make it quite clear, that was 1939, was it not?

A. Yes, 1939.

Q. Now, we have prosecution documents in book 3–B, exhibits 103[1] and 109[2], page 259 and 279 of the English. These documents show that the so-called SD, Security Service, was also working in Slovakia. Please tell us what this was about and whether you were in any way connected with this SD work?

A. At that time I got certain information material from the SD because the SD was an official intelligence agency for the government; but that such extensive work of the SD was carried out in Slovakia as the documents now show was not known to me at that time. I only learned that a few days after Slovakia's declaration of independence. Conditions in Slovakia were somewhat strange. The wish to declare their independence was spread all over the country. Its actual execution was slowed down by the fact that three statesmen were competing for the post of head of state. That was first Dr. Tuka, whom I have already mentioned; also Premier Tiso, who had been appointed the first premier by Prague but had again been deposed on 10 March; and the third man in the running was a Dr. Sidor, who, strangely enough, on 10 March, when Tiso was deposed, was appointed premier by Prague. Prague had really intended another man for the job but he, it turned out, was not prepared to accept it. All these three men were aware of the fact that in order to declare Slovakia independent, they must have a certain amount of cover in the foreign policy. Formerly they had sought that from Hungary; but now that the Reich had become so strong they tried to get it from Germany, and so these men were trying continuously to make contacts with German circles. As I saw later, that grew rather extensive. Contact was sought most in Vienna which is right next door to Bratislava; and contacts of this kind with Vienna were also the occasion of my being used for Slovak tasks later.

Q. I would like to come back to the SD once again, which was our starting point. Did you—that is, you told me that you received information. Did you, for your part, exercise any influence on the activity of the SD?

A. No. I only received information and was not informed at all about the sphere of SD activity in Slovakia at that time but

[1] Document NG–3099, Prosecution Exhibit 103, a note of 1 November 1938 by an SS Staff Leader concerning the contacts of an SS confidential agent with various leaders of the Slovak independence movement. The document bears stamps or initials showing its circulation in several branches of the German Foreign Office. This document is not reproduced herein.

[2] Document NG–3325, Prosecution Exhibit 109, a series of memoranda of the German Foreign Office concerning payment for SD activities in Slovakia and related matters. This document is not reproduced herein.

there were other agencies there too; for instance, VoMi.[1] I heard of that later too. They were doing rather a lot in Slovakia.

* * * * * *

Q. Now, Mr. Keppler, let's come back to the Slovak affair. At the end you were speaking about a meeting with Goering where Tuka and Durcansky also participated and during which, for the essential part, economic questions were discussed. Is that right?

A. Yes.

Q. At that time had the situation become critical already in Slovakia which resulted from the intervention of the Prague government and which you have already described?

A. No. This was certainly before this crisis occurred.

Q. Up to now you have told us only of an informational and collection activity in the Slovak affair which you carried out exclusively in Berlin. Were you now also given the task to inform yourself on the spot—that is in Slovakia itself?

A. Yes. On 11 March 1938, Hitler sent me to Vienna, and on 11 March 1939, I was again called to Hitler and he informed me that Gauleiter Buerckel,[2] without having been given a mission and without being authorized to do that, had taken up negotiations with the Slovak people. The Fuehrer was extremely put out by this action and instructed me to fly to Vienna immediately. There he said Buerckel and Seyss-Inquart would call for me at the airport. He said that he had prohibited Buerckel from continuing his negotiations in any way; and he told me that I should clarify the matter by my visit to Vienna and by a visit of mine to Bratislava and if I considered it necessary, he said, I should get in touch with him—Hitler.

Q. What was the situation as you found it when you arrived in Vienna?

A. Well, when I arrived in Vienna, neither Buerckel nor Seyss-Inquart were at the airport. I had to find out first where I could meet them; and I finally found them in the residence of Gauleiter Buerckel. They welcomed me rather coolly. They gave me a bad reception and hardly gave me any information. They were not feeling very well. They said that all of their work had become useless because upon instructions of the Fuehrer they had to interrupt their activity and in the meantime, they said, the matter had been taken out of their hands and there was no purpose for me to come to Vienna. It was no sense for me to go to Vienna and it was even less use for me to go to Bratislava. Thereupon

[1] VoMi, the abbreviation for "Volksdeutsche Mittelstelle", was the Office for Repatriation of Ethnic Germans. Werner Lorenz, the chief of this office, was a defendant in the RuSHA case (vols. IV and V, this series).

[2] In March 1939, Gauleiter Buerckel was Reich Commissioner for the Reunion of Austria with Germany and Reich Governor of Vienna.

Buerckel called up Hitler and reported the same thing to him. Hitler again became rather unpleasant and officially instructed me over the phone that I should nevertheless go to Bratislava in order to inform myself there on the spot. He said that he desired that Buerckel and Seyss-Inquart should accompany me but he said, if the gentlemen were not ready to accompany me, I should go to Bratislava alone.

Q. When did you arrive in Bratislava and what happened there?

A. I announced that I would arrive in Bratislava at night late and the three of us left for Bratislava and arrived there between 2 and 3 o'clock in the morning. Sidor, who had been appointed Prime Minister 2 or 3 days before, received us immediately but I felt that he really didn't feel the urge at all to negotiate with us. Apparently the state of affairs was such that Sidor had recognized that the office that he had been given from Prague would not last very long. He had, therefore, taken steps to declare the independence—and sought to have his back covered towards the Reich through the person of Buerckel. When Buerckel was no longer able to comply with his request because of the Fuehrer's prohibition and when he could no longer negotiate with him, he evidently turned towards Prague. I recognized that particularly from the fact that he had ordered that the presidial body [Praesidium] of the Slovak Diet, as opposed to the resolution of the Diet, should nevertheless go to Prague to be sworn in. From many other events I gained the impression that Sidor was a very vacillating person and the Tribunal will remember that the daughter of the President Hacha, mentioned Sidor * * *.

Q. Would you please repeat what you said?

A. I said the Tribunal will certainly remember that the daughter of Hacha,[1] the President of the Czechoslovak State, mentioned Sidor as a particular trustworthy man of Prague; and on the other hand documents have been submitted here, the number of which I unfortunately do not recall, that show that Sidor stated toward people from the SD that he would rather have the Slovak territory swallowed up by Germany than having to maintain relations with Prague. Then on 10 March he had been appointed as Minister President from Prague and on the next day he again took up connections with German circles. At any rate this conversation in Bratislava had no results.

Q. The document to which the witness has just referred is Prosecution's Exhibit 103[2] in book 3–B, page 259 of the English. Mr. Keppler, negotiations with Sidor were unsuccessful?

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[1] Mrs. Radlova. Extracts from her testimony appear earlier in this section.

[2] Document NG–3099, Prosecution Exhibit 103, a note of 1 November 1938 by an SS Staff Leader concerning information from confidential agents in Slovakia. Not reproduced herein.

A. Yes.

Q. Did you conduct any further negotiations in Bratislava?

A. No. I merely said that Dr. Veesenmayer should remain in Bratislava since, from the entire situation, one could notice that a climax would occur and I merely gave him the mission to keep me informed about the events there.

Q. What happened subsequently?

A. During that same night, I returned to Vienna. My stay in Bratislava, when I entered Slovakian territory for the first time, lasted approximately 90 minutes. On the next morning I called up the Foreign Office, informed them that my trip had been unsuccessful, and also informed them that I intended to return to Berlin that same evening.

Q. The next morning was what date? We want to fix it for the record. 12 March, was it not?

A. Yes, 12 March 1939.

Q. About the telephone conversation that you mentioned just now—the expert in the Foreign Office, Altenburg, made a file note about it and that has been introduced as Prosecution Exhibit 117* in book 3–B, on page 315 of English. Are the contents of this file note in keeping with the report you gave him over the phone?

A. This is probably this telephone conversation. I described to him, over the telephone, the peculiar situation. I had heard that Tuka, next to a few other Czech statesmen, had been arrested by the Czechs. The Prime Minister Tiso, who had been dismissed, as I had heard, had withdrawn to his home in the central part of Slovakia. The conversations with Sidor had not had any success and these circumstances probably caused the man making the note about the telephone conversation to say that it was difficult to find any new contacts. Shortly after this conversation I was called up from the Foreign Office in Berlin and I was informed that I should not come back to Berlin but that I should wait in Vienna, since I might have to accompany somebody from Vienna to Berlin. But I was not told who that somebody was to be.

Q. What did you do then on 12 March in Vienna?

A. I had a very peculiar experience on 12 March. Since I had nothing much to do, I took an automobile in the afternoon and drove out to Engerau. That is a little town lying on the other side of the Danube from Bratislava. And from there I wanted to look at the old city of Bratislava with the coronation castle of the Hungarian kings. When I approached Engerau I found much activity there and an unusually large number of big trucks were pulled up—a number of other cars were there—and I noticed

* Document NG–3045, Prosecution Exhibit 117, reproduced earlier in this section.

that something was up. When I drove past a cafe I found that there was much activity in there, too. I went inside and to my surprise I found there Gauleiter Buerckel with his staff. I then found out that he had reactivated the so-called SA Regiment "Feldherrnhalle" that was stationed in Vienna—in civilian clothes, it is true—and that he intended to take Bratislava by assault. I assumed that that was intended as a sort of revenge because he had been embarrassed to such an extent by Tiso. Of course I intervened immediately and told Buerckel that something like that was impossible under any circumstances. I asked him whether anybody had given him the mission. When he didn't want to give in, we called up the Reich Chancellery and reported the event and the Fuehrer, of course, immediately instructed that Buerckel should have to clear out. This didn't play a big part in politics. I merely wanted to give it as part of the characteristic activity of mine in Vienna.

Q. In the notes about the events that took place in March 1939, in Prosecution's Exhibit 118,* book 3–B, page 312 of the English, there is a note according to which, on the night of 12–13 March 1939 Tiso was visited in Slovakia; that he decided to fly to Berlin, and that he was there received by the Fuehrer. Did you or Veesenmayer, on your behalf, bring about Tiso's visit?

A. No. However, the person whom I was to accompany to Berlin actually was Tiso, and on Monday morning the Foreign Office informed me that Tiso would arrive around twelve noon at the airport in Vienna—they told me an airplane was ready and I should accompany Tiso to Berlin. Neither Veesenmayer nor I had anything to do with this affair. I heard subsequently that Tiso had a visit from the SD and that these SD people had connections with Ribbentrop. Then Dr. Veesenmayer accompanied Tiso to the airport in Bratislava. I made his acquaintance there. Before that time I had not made his personal acquaintance nor had I had any other relations with him, and then we entered the airplane to fly to Berlin. Hardly had we taken our seats in the plane, when Tiso told me that he had to fly back that very same night for, he said, on the next morning a meeting of the Slovakian Diet had been called where the State of Slovakia was to declare its independence. He said that the Prague government had not yet given their consent to this meeting, but he said that he hoped to receive this consent while he was in Berlin. This approval actually did arrive in Berlin, even before Tiso was received by the Fuehrer. From these events it becomes clear that the independence of Slovakia had already been decided before I even made Tiso's acquaintance.

* Document NG–3956, Prosecution Exhibit 118, reproduced in part earlier in this section.

Q. Mr. Keppler, from your conversation with Tiso did you take it that he was coming to see Hitler voluntarily or did you have to take from it that Tiso had been urged or forced to visit Hitler?

A. No. Tiso told me that originally he had no desire to go to Berlin but he stated immediately that he would like to go to Berlin very much if he had some reasonable expectation of being able to see the Fuehrer personally. And when he was assured that he could see him, then he decided to make the trip right away.

Q. About the conference between Tiso and Hitler, a document has been submitted; namely, Exhibit 120* in book 3–B. That is on page 322 of the English. It is a conference record of the Minister Hewel. Is this true reproduction of the course of the negotiations or do you have any additions to make?

A. That transcript generally, in the larger sense, corresponds to the course of the negotiations. However, I believe that the reporter who took this down did not understand the situation properly. Before the reception Ribbentrop had already informed Hitler that on the next morning the Slovak Diet would meet and that Prague had given approval for this meeting. And this problem was only touched upon as a side issue during the negotiations. And I can see from the transcript that the author did not quite understand this situation. The Fuehrer spoke to Tiso about the circumstances and relations in the Czech area and the crisis that the course of events had taken; and he pointed out once more to Tiso that the time of decision had now arrived; and Tiso was much concerned about his future task; and again and again began to speak and say that Slovakia would ask for the protection of the Reich. He was very much concerned about the structure of the state, about the separation of the currency, the taking of this currency out of the Czechoslovak currency, and such things; and he asked for advice. The Fuehrer did not make any binding promises about the protection offered, he left that open; and he recommended to Tiso that he discuss with me any other worries that he had.

Q. Mr. Keppler, the prosecution describes this state of affairs as having been the following: Tiso could get himself ready to try for an autonomous state only under the threat of armed intervention. What have you to say about that?

A. That can be seen from my description. When I met Tiso in Vienna he described this and said that the declaration of independence of Slovakia was already a dead issue because that corresponded to a motion which the Slovak Parliament wanted to decide in this sense; to declare Slovakia independent. I wanted

* Document 2802–PS, Prosecution Exhibit 120, reproduced earlier in this section.

to mention this too, in this connection—on the next day Hacha himself said that he had known the meeting of the Diet had been called in order to declare Slovakia's independence but he said that he had, nevertheless, given his consent.

Q. Did Hitler express any threats of military invasion?

A. I am not aware of any such threats.

Q. You said that Hitler recommended to Tiso that he discuss with you any further worries that he had. Was that done subsequently?

A. Well, after the conversation with the Fuehrer took place, I wanted to accompany Tiso and Durcansky to the hotel. However, they rejected my company and they asked to be allowed to tell me their worries. Thereupon, I took these gentlemen along to a conference room in the Foreign Office and there we discussed their worries in great detail, particularly economic questions. Tiso wanted to return to Slovakia shortly after midnight. Unfortunately, however, flying conditions were bad; there was a big storm, and all planes were grounded in the entire Reich territory. Thus, these gentlemen could not leave before 4 or 5 o'clock in the morning and they arrived just in time to participate in the meeting of the Diet in Bratislava.

Q. As to the meeting of the Diet and the events of 14 March, there are two notes contained in Prosecution Exhibit 118,[1] in book 3–B, which is on page 314 of the English. There are certain statements contained in this document about a telegram to the Fuehrer which had been discussed but which the Slovak Diet later did not adopt as a resolution. What is the story of this telegram?

A. On the preceding day, when we were together in the Foreign Office for such a long time, Tiso stated that he wanted to submit a telegram to the Diet in which the new Slovak State asked for the protection of the Reich. Such a telegram actually was not sent out on that day. The resolution of the Anschluss was adopted unanimously. However, I was told later on that a small, insignificant group had advocated the view that it should not be the protection of the Reich, but the protection of Hungary should be requested. For that reason the telegram was not sent out on that day because it was to be feared that a unanimous decision could not be achieved. However, 1 or 2 days later the telegram was sent out, while the Fuehrer was in Prague.

Q. May I point out in this connection that we submitted Keppler Exhibit 124[2] in book 4, and that same thing can be seen from Prosecution Document 118, book 3–B, on page 312 of the English.

[1] Document NG–3956, Prosecution Exhibit 118, reproduced in part earlier in this section.

[2] Keppler Document 205, Keppler Exhibit 124, reproduced earlier in this section.

Mr. Keppler, I believe you have just made a mistake. You spoke of a resolution about the Anschluss.

A. I beg your pardon; it was a resolution about the independence.

Q. In Prosecution Exhibit 118, which has been repeatedly mentioned, there is a draft of the OKW dated 12 March 1939 for a military ultimatum. On the basis of the distribution list, one can see that you received the document for information. At any rate, your name is mentioned in the distribution list. Can you still remember today whether you did see the document at the time?

A. No, I cannot. As I have stated, I was in Vienna and Bratislava during those days from the 11th to the 13th, and on the 13th I spent the entire evening with Tiso. Therefore, I certainly did not have this telegram submitted to me. In other words, if the document came into my possession at all, I had it at the earliest by the 14th.

Q. If I understand you correctly, again, there was no connection between the ultimatum and the activity exercised in Slovakia.

A. According to what I stated, that is a matter of course.

Q. Mr. Keppler, were these demands of the ultimatum to be made to Slovakia, or were such demands discussed during your conversation with Tiso?

A. These demands certainly did not refer to Slovakia.

Q. Then these demands probably referred to Prague, didn't they?

A. From the documents one cannot see this, but I assume that is so.

Q. During those days, did you participate officially in the negotiations between Berlin and Prague?

A. Not at all.

Q. How is it, then, that you participated in the conversations with Hacha during the night of 14–15 March? This is contained in Prosecution Exhibit 122,* in book 3–B, on page 325 of the English. It is true that Keppler is not mentioned in the official list of participants. Please answer my question now.

A. That was a somewhat peculiar state of affairs. I met the later Ambassador Hewel that afternoon. He was then liaison man of the Foreign Office with the staff of the Fuehrer. I heard that Hacha had announced his visit and I stated to Hewel that that would certainly have to be an interesting conference; and I said to him, literally, that I would love it if I could just be a little mouse and listen to the conversation from a corner of the room. Apparently Hewel reported this somewhat humorous statement

* Document 2798–PS, Prosecution Exhibit 122, reproduced earlier in this section.

to the Fuehrer and in the evening I was instructed to come to the Reich Chancellery at midnight. I was present during that conversation. Apparently the Fuehrer wanted to bestow a particular boon on me by permitting me to be present.

Q. Did you participate actively in the conversations with Hacha and Chvalkovsky?

A. Of course I was only a listener; I didn't speak a single syllable.

* * * * * * *

Q. Now, we want to come back to talk about prosecution document book 3–B. In Prosecution Exhibit 125,[1] on page 333, there is some correspondence between you and Himmler, which has been introduced. The first letter is addressed to Himmler by you, dated 15 March 1939; that is to say, immediately after Hacha's visit. What was the reason for your writing this letter?

A. Himmler had called me on the telephone that morning, and he had inquired about the course of the negotiations during the previous night with Hacha. He was very much pleased about the events; and I used that opportunity to ask for a promotion for Dr. Veesenmayer, since, in my opinion, he had been somewhat neglected on that point.

Q. If I understand you correctly, the letter concerned the promotion of Veesenmayer; that was the purpose of the letter. Is that correct?

A. Yes.

Q. Now, is it correct if I assume that, for that purpose, you exaggerated in this letter in certain respects?

A. Yes, that's probably correct.

Q. Three years later, on 21 [23] January 1942, you once more wrote to the Reich Leader SS about Veesenmayer's promotion. Two prosecution documents have been submitted with various exhibit numbers but they all deal with the same thing and have the same contents. They are in prosecution document book 138, Prosecution Exhibit 2666, on page 53 of the English; and in prosecution document book 94, Prosecution Exhibit 2565,[2] on page 124 of the English. This is the same document which has merely been given two different exhibit numbers. In these documents you emphasized Veesenmayer's merits and his preliminary work for the march into Slovakia and Czechoslovakia.

Did you exaggerate there once more so strongly in order to bring about a promotion for Veesenmayer? Please comment on that.

[1] Document NG–2937, reproduced earlier in this section.

[2] Document NG–3004, the SS personnel file on the defendant Veesenmayer, was first introduced as Prosecution Exhibit 2565 and later, by inadvertence, introduced again as Prosecution Exhibit 2666. The letter referred to is reproduced earlier in this section.

A. The first appeal, which was made by me in 1939, was unsuccessful and 3 years elapsed without any promotion of Veesenmayer. In the meantime I had learned and observed that the notorious Heydrich was opposed to Veesenmayer's promotion since Veesenmayer was not on good terms with this gentleman. Therefore, in January 1942 I once more applied for the promotion and exaggerated even more at that time. The march into Czechoslovakia is mentioned as a historical event, for Veesenmayer himself had nothing to do with Czechoslovakia. Then, another error was made—there was no march into Slovakia. During the occupation of Slovakia actually only a small unit marched through a small corner of Slovakia.

Q. In your letter to Himmler you speak about serious charges that had been raised against Veesenmayer and against you. What were these charges?

A. Well, this concerns our old friend Mr. Buerckel, who, of course, was particularly put out by the fact that in the days of March 1939 he had suffered some unpleasant hours as a result of my intervention against his methods. Therefore, he was very much opposed to the promotion and was ready to attack me and my collaborator, Mr. Veesenmayer. That is the matter to which this refers.

Q. In Himmler's reply to your letter, dated 28 March 1939, again in document book III B, Exhibit 125, on page 333 of the English, Himmler expressed his gratification; and he says that in the future the SS men would be working under your leadership. Before that the two SD leaders, Goetsch and Naujocks, are mentioned in the letter. Did these members of the SD work under your leadership in any manner?

A. No. They did not. As I stated, I used the SD, at the time, as a source of information, since it was an official intelligence agency of the government. I remember that Goetsch invited me on one occasion in order to describe to me personally what the conditions in Slovakia were. I didn't even know Naujocks at the time. I believe that I made Naujocks' acquaintance here in the prison but I certainly didn't know him then.

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CROSS-EXAMINATION

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DR. KEMPNER: You stated yesterday that when the conference with Tiso took place, everything had already been taken care of, more or less.

DEFENDANT KEPPLER: Yes, that is what I said.

933764O—51——64

Q. Did you or Commissioner Veesenmayer take care of this preparation and did he prepare this ably?

A. I stated yesterday that Veesenmayer was asked by me to go to Slovakia for informational purposes, and I also stated that it wasn't until 11 March that I was given the mission to become active politically. Before that time I had merely been given the mission to keep informed so that I might be called in at any time.

Q. Why did these people use bombs in Slovakia if the Slovaks were quite ready, on their own, to agree?

A. I only heard, at one time, that an old chimney was blown up but, as I described yesterday—

Q. I will repeat. Why did these people use bombs in order to blow up the Slovak State if, as you stated, they were able to do it very easily otherwise?

A. I stated, approximately, that I knew that at that time in Bratislava an old chimney was blown up. And Veesenmayer and I, of course, had nothing to do with this affair. Furthermore, during my testimony yesterday I stated that there were other agencies that concerned themselves with the Slovak question. I described the uncontrolled activity of Gauleiter Buerckel, how he wanted to take Bratislava by storm, and I also described, when going into certain prosecution documents, what the SD's activity had been. I don't know why they conducted all this nonsense there.

Q. When you sent Veesenmayer to Slovakia, why did you expressly tell him that he should establish contact with the SD?

A. I can't remember that. The only thing that could have been concerned here was intelligence.

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EXTRACTS FROM THE TESTIMONY OF THE DEFENDANT LAMMERS*

DIRECT EXAMINATION

DR. SEIDL (counsel for the defendant Lammers): Witness, please give the Tribunal the date and place of your birth.

DEFENDANT LAMMERS: I was born on 27 May 1879 in Lubliniec [Lublinitz], Upper Silesia. That was then a part of Prussia and so of the German Reich; and so I was born a Reich German. My father's family comes from Westphalia and my mother's family from Silesia. I am of the Protestant faith.

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* Complete testimony of Lammers is recorded in mimeographed transcript, 3, 7–10, 13–17, 20–23 September 1948; pages 19763–19802; 19943–20058; 20212–20311; 20514–20624; 20786–20893; 21016–21132; 21148–21251; 21362–21475; 21586–21684; 21714–21933; 22029–22131; 22294–22417; 22575–22676.

Further extracts from the testimony of the defendant Lammers are reproduced later in sections VI E, VI F, and VI H this volume and sections IX E 3 and XI B 2, volume XIII.

Q. You said you were born on 27 May 1879, so you are now in your seventieth year?

A. Yes.

Q. I would like to ask you briefly about your faith. Are you still a member of the Evangelical Church, or did you leave it, or had you ever left it and then rejoined it?

A. I have been a member of the Evangelical Church since my birth and never left it.

Q. Please give the Court a short description of your career.

A. I got my first schooling through private tuition. Then from 1889 to 1898, I visited the Fuersten school in Pszczyna [Pless] in Upper Silesia. In October 1898, I graduated from school. Then from 1898 to 1901, I studied law and constitutional history at Breslau University. In November 1901 I passed my first legal examination, being classed as good. From November 1901 to the spring of 1907, I was Referendar[1] in the judicial service [Justizdienst] and did the normal preparatory training; and at which time also served my compulsory military service for one year. In 1907, I passed the big state examination with the note that my achievement was above the average and I was appointed Gerichtsassessor.[2]

MR. LEWIS: May it please the Court, I would like to interrupt. An affidavit given by this defendant is an exhibit in a prosecution book which gives exactly the same details and dates as he is giving now. If he has something additional to add to it, that is all that would be necessary for the record. I believe this is just consumption of time in the court to repeat what already is evidence before it.

PRESIDING JUDGE CHRISTIANSON: Well, how about it, Dr. Seidl, is it exactly the same or have you got something else in this than you have in that affidavit?

DR. SEIDL: It is true that there is an affidavit by defendant Dr. Lammers[3] which was submitted by the prosecution. However, there are gaps in it. It needs to be supplemented and the witness' testimony is to serve the purpose of filling these gaps in essential points.

PRESIDING JUDGE CHRISTIANSON: Well, Mr. Lewis, probably the whole thing won't take but a few extra minutes anyhow. Perhaps we better let it go. I trust you will not spend time in repetition here. You go ahead with your examination but try to make it concise.

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[1] Young jurist who has passed the Referendar examination (sometimes called the first state examination) and works as a law clerk in a court.

[2] Judge on probational appointment, after having passed the Assessor examination (sometimes referred to as the second state examination).

[3] Document NG-1364, Prosecution Exhibit 418, not reproduced herein.

DR. SEIDL: Dr. Lammers, would you be kind enough to finish your answer and tell the Tribunal what you did after passing your first legal examination?

DEFENDANT LAMMERS: First I was in the judicial service. Then for several months I was an attorney, then I went back to the judicial service and was an associate judge [Hilfsrichter] at the local and district court in Breslau until, in 1912, I was appointed judge in Beuthen in Upper Silesia for life, with the official designation of district judge [Landrichter], and later I became Landgerichtsrat.*

* * * * * * *

Q. Did you take part in the First World War 1914 to 1918?

A. Yes. I was at the front first and after becoming unfit for front-line duty in 1917 I worked in the rear area and partly at home. I was an officer of the reserve, in Infantry Regiment 51, and in 1918 I was discharged with the rank of captain of the reserve.

Q. You said that you became unfit for military service at the front. May I ask how this was?

A. I lost the sight of my left eye and I was very ill; and so when I left the army, they registered me as having lost one-third of my ability to earn my living.

Q. Did you receive any decorations?

A. I got the Iron Cross Second Class and later the Iron Cross First Class, and a number of other decorations.

Q. How long did you work in Upper Silesia as a judge?

A. Until 1921, but after the war in 1918 I did not return to Beuthen in Upper Silesia. I had been released for work with the administrative service. In spring 1921 I became Senior Government Counsellor [Oberregierungsrat] with the Ministry of the Interior; and so I left the judicial service.

Q. How did you come to get this appointment in the Ministry of the Interior? How did you try for it?

A. After the war I did not want to and could not return to Beuthen in Upper Silesia because at the time it was occupied by the Allies and second—and I think this was the main reason—I had no home there any longer and no chance of getting one either; so I applied for a transfer to the administration. I received a number of offers for permanent appointment.

Q. You accepted these offers?

A. Well, I accepted the offer of the Ministry of the Interior and after having worked there as an assistant [Hilfsarbeiter], in 1921 I was appointed Senior Government Counsellor.

* Further information on judicial titles is contained in "Titles of Judges and Prosecutors at Regular German Courts", appendix, "Justice Case", volume III, this series.

Q. How long did you work as Senior Government Counsellor in the Ministry of the Interior?

A. Only until 1922, then I became Ministerial Counsellor. In this capacity I worked until 30 January 1933.

Q. What was your work between 1921 and 1933, in the Ministry of the Interior?

A. I handled matters of constitutional and administrative law, to give a general description of my work.

Q. Before we enter into more details of your work during these years, I'd like to put some preliminary questions. First of all, when Germany became a republic at the end of the First World War, there was a fundamental change in political conditions. What was your own attitude to this change in the political regime?

A. I was born in the Empire, I had grown up in it, and taken office under it. I was an official and an officer loyal to my emperor and king. I was 40 years old at the time. As a convinced monarchist I disliked the political changes of 1918 to 1919, nor did I hide my attitude; and I was not afraid to proclaim it publicly. On the other hand, I did not fail to recognize, and in later years after examining the historical fact, I came to see more and more that the political changes of 1918 were in part, at least, not without reasonable foundation. However, I couldn't turn back the wheel of history and I, like many other Germans, had to try to put up with the new form of government and I honestly tried to do so.

Q. You said that you disliked the changes of 1918. Why then did you remain in the government service?

A. There were a number of reasons for that. In the first place, under the German civil servants' law and regulations and according to the professional ethics of German civil servants, a civil servant is tied to the state for life, and it was in the old tradition of civil servants to stay in the service in spite of changes in political conditions, if one believed that one could honestly serve the state in its new form. I suppose this was the main reason.

Another reason was that at the time it was made very easy for civil servants to decide to stay in the service because of the promises made to civil servants in the Weimar constitution. These promises seemed, even to a nonrepublican minded civil servant, to indicate that it would be possible to serve the new government loyally in accordance with one's official duty. I may, perhaps, briefly mention the provision of Article 128 of the Weimar Constitution, which said that all citizens—without exceptions—in accordance with the law and their abilities, could hold public posts. Furthermore, Article 130 of the Reich constitution expressly assured all civil servants that they would have liberty of political

opinion, and over and beyond that, the constitution in Article 118 promised all Germans the right to express their opinion freely in all respects, with the express addition that no relationship of employer to employee may prevent it, and that no one may be put at a disadvantage because of his opinions. All these were assurances which, even to a civil servant of my political views, made it quite pleasant to remain in the service and it gave an opportunity to serve the new state honestly and fairly. Of course I don't want to go into this any deeper here but some of these provisions were just only on paper. But all the same I tried to serve the Weimar Republic honestly and to fulfill my duties and to claim my privileges. Then a last reason, but by no means the decisive one, was that I didn't feel inclined at the age of 40 to change my profession. It wasn't very easy at that time. Anyway, I had a family and after 4 years of war I wanted to settle down and have some family life.

Q. Witness, were you a member of any political party at the time?

A. Yes. I was a member of the German Nationalist People's Party. That was my good right. It was generally known and I never tried to conceal it.

Q. Were you a member of one of the bigger associations which existed after the First World War?

A. Yes. I was a member of the Stahlhelm,* and I made no secret of that either. Off duty I openly wore my Stahlhelm badge. It was forbidden during duty hours under the conditions at the time and I quite saw the point.

Q. Well, Witness, you have told us about your career and I now come back to the question that I wanted to put before. In view of your political attitude, and especially being in the Reich Ministry of the Interior, were you able to take over the division for constitutional and administrative law which includes the handling of the Weimar constitution?

A. Naturally that was a question I asked myself at the time. When the then State Secretary in the Ministry of the Interior, who appointed me, told which division I was to take over I, myself, of my own accord frankly told him that I had some misgivings on that subject. He replied that I could quite well abandon these misgivings. He needed an official of the old school who knew the law because otherwise the Minister might inflict someone on him who had no proper training or knowledge and I had been able to get along with the new constitution. My functions, in the main, were not in the political sector but in the legal sector.

* "Steel Helmet," a German war veterans' organization founded in 1918 by Franz Seldte, integrated into the Nazi Party in 1933.

The Ministerial Director under whom I was to work confirmed that. I am sorry that these two gentlemen are no longer alive to confirm these. These were the reasons why I took over this office and this division.

* * * * * * *

Q. Witness, I now come to your political career. When did you join the Nazi Party?

A. February 1932.

Q. What is your membership number?

A. I can't give you the exact number, but it was somewhere around 1,010,000.

Q. Did you take an oath to the Party?

A. No.

Q. Were you ever asked to?

A. I believe I was, once, but I didn't go. I was no friend of such oaths.

Q. Before joining the Party, did you know the Party program?

A. In broad outlines, I did. I only got to know it in detail after joining the Party.

Q. Didn't you have any misgivings that your entry into the Party might conflict with your official position as Ministerial Counsellor in the Reich Ministry of the Interior?

A. None whatsoever. The Nazi Party was a permitted party, represented in the Reichstag by something like 200 seats, and the civil servants were permitted to join parties. On the contrary, it was even expressly guaranteed them in the constitution.

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Q. How did your appointment as State Secretary in the Reich Chancellery come about?

A. At the end of January 1933, the Schleicher cabinet resigned. Negotiations took place regarding the formation of a new government and Adolf Hitler was about to be named Reich Chancellor. On 29 January 1933, toward the evening, Adolf Hitler asked me to come to the Hotel Kaiserhof. He told me that he needed an expert for constitutional and administrative law, as State Secretary in the Reich Chancellery, and he added something to this effect. "I am a politician. I am not familiar with administrative red tape, nor do I want to bother with it; but I do not want to make a fool of myself. I need an official who is familiar with this ground. Are you prepared to take over that position?" I answered in the affirmative and on the next day, after Hitler had become Reich Chancellor, on his proposal, I was appointed by the Reich President as State Secretary in the Reich Chancellery.

Q. Did you present your papers to Hindenburg on the occasion of this appointment?

A. Yes. I did on the next day, 31 January.

Q. Was anyone present when you met Hindenburg?

A. No. Herr Meissner* took me in and introduced me and then left us alone.

Q. What was the content of your discussion with the Reich President, von Hindenburg?

A. In our discussion, Hindenburg had me describe my career and when he dismissed me he said to me something like this, "Then you are the right man for this post. I wish you the best of luck."

Q. Had Hindenburg known you earlier?

A. I do not believe so. To be sure, before 1933 I had twice attended receptions in his presence, at which, however, there were more than a hundred persons present and we had opportunity only for the usual handshake. I do not believe that he had known me previously.

Q. Before your appointment had you known the new Reich Chancellor, Adolf Hitler?

A. Yes. I had once made his personal acquaintance in a gathering in the year 1922, where I heard him deliver a speech. After this speech and a brief introduction, I sat in his company and in the company of many others, at a large table, without having opportunity to have conversation with him. This was before the Munich Putsch of 1923 and the subsequent banishment of the Nazi Party. I never assumed that Hitler remembered this meeting with me.

Q. In the period following, did you maintain connections with him?

A. No. Neither in writing nor in speech. I neither saw him nor heard him speak until, on 29 January 1933, I was called to him.

Q. You said that in February 1932 you became a Party member. From that date until your appointment as State Secretary, were you active in the Party?

A. I paid my dues. I once took part in a gathering in the Ortsgruppe to which I belonged. That was simply a beer drinking evening with some business communications thrown in. Then twice I attended gatherings arranged for by the Party and on these two occasions I made speeches on the request of others, in the spring of 1932.

* * * * * * *

Q. Did the new Reich Chancellor, Hitler, when you took over

* The defendant Meissner was chief of the Presidential Chancellery under Hindenburg and later under Hitler after Hindenburg died.

office, give you specific communications regarding how he intended to exercise his functions as Reich Chancellor?

A. He gave me almost no instructions at all. He merely said: I do not want any red tape. I don't want to have any documents stuck under my nose. I only want to have to sign when it is absolutely necessary; namely, laws, directives, decrees, documents of appointment, letters to foreign chiefs of state, or foreign ambassadors, etc. Those were the only instructions I received.

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Q. I could conceive that the changed legal status of the German Reich might have some influence on the Reich Chancellery. Now, we will go into details later. But I want to ask you now: How did the Party's influence affect the Reich Chancellery?

A. The gradually increasing influence of the Party on governmental administrative affairs, including the personnel policy, increased at first gradually in that first of all the Fuehrer's deputy, Hess, played a role in his new capacities.* This influence increased consistently and became really measurably greater after Reichsleiter Bormann took over the Party Chancellery. The result was that the Reich Chancellery gradually became dependent on the Party Chancellery. That, of course, had some influence on the structure of the Reich Chancellery.

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Q. Then what was the Reich Chancellery in reality after January 1933?

A. It was the Fuehrer's Secretariat. It was the Chancellery of the Reich Chancellor, as its name implies, but of course only with those tasks which the Reich Chancellor gave it or that he allowed it to retain. I was not in a position to take rights unto myself in the name of Adolf Hitler, which, in the former parliamentary time, any State Secretary would have exercised in the name of the Reich Chancellor.

Q. What tasks or functions did the Reich Chancellery have in the field of legislation? Please answer this question merely in general terms first because we wish to later return to the details.

A. As Chief of the Reich Chancellery I had to direct the formal channels which instruments bearing laws took, so far as they were laws, Fuehrer decrees and Fuehrer directives. That is to say, I regulated the procedure. I do not wish to dispute the fact that this was a very important function, namely, seeing to it that the legislative machinery ran without friction and if possible rapidly. But actually influence on the legal norms established I did not have, aside from certain formalities.

* "On 21 April 1933 he (Hess) was appointed Deputy to the Fuehrer, and on 1 December 1933 was made Reichminister without Portfolio." Judgment of the IMT, Trial of the Major War Criminals, *op. cit.*, volume I, page 282.

The actual business was done by the competent ministers, and in some part by the ministers participating. In fulfilling my tasks, of course, as is always the case in such offices, there were political considerations also. However, I did not decide on these political points of view or considerations but the Fuehrer did.

Of course in all my activity in these matters I had to keep these political considerations in mind. For example, in the question whether I asked the Fuehrer at all whether a new law which was in preparation should be brought forward. For example, if there was to be a new tax law with particular effects on the taxpaying of the people. I didn't set such a tax law in motion among the other ministers but I first asked, and I received my answer based on the political considerations that the Fuehrer had. And he told me whether he wished it or did not wish it. Or let's take another example. Suppose there was another decree concerning measures [Eichordnung], if beer glasses should be size 0.5, 0.2, and 0.3 [liter]. If it was a matter of such a trivial nature, I did not bring it forward. Or, suppose there was a law which was going to increase social security payments. I did not bring it forward because I knew the Fuehrer would approve it. However, if the law was going to reduce them, then, of course, I first got the Fuehrer's political directive.

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Q. The next document is Document TC–51, Prosecution Exhibit 126.* It is in document book III–B, page 335 of the English. It is a Fuehrer decree concerning the Protectorate of Bohemia-Moravia, dated 16 March 1939. This document is a reason for me to ask you some questions in connection with the part that you played with regard to the occupation of Czechoslovakia. First of all, were you present at the conference between Hacha and the Fuehrer on the night from 14 to 15 March 1939, where other persons were also present?

A. I was not present. I was not invited. I knew that we had visitors from Czechoslovakia, as I had heard that from the Fuehrer's adjutant's office by chance. Whether Hacha himself was there or not I did not know either at that time.

Q. Were you present, before this conference between the Fuehrer and Hacha, at any other negotiations connected with the occupation of Czechoslovakia?

A. No. I was not and I would like to emphasize that I was not even present at the negotiations which—I think one or two days

* The decree of 16 March 1939, establishing the "Protectorate of Bohemia and Moravia". The full text of this decree is quoted in the telegram from Sir Nevile Henderson to Viscount Halifax of 16 March 1939, Document TC–51, Prosecution Exhibit 126, reproduced earlier in this section.

before—took place between the Fuehrer and the President of Slovakia, Tiso.

Q. Were you concerned in any other way with the preparation of the occupation—in the military sphere, in the political sphere, or even only in the sphere of organization of administration? Did the Fuehrer tell you anything at all about this imminent occupation?

A. I must answer both questions in the negative. In regard to the latter there is something I would like to add. Before all great historical events—such as Austria, the Sudetengau, Czechoslovakia, etc.—the Fuehrer, for weeks beforehand, was so busy—and, of course, I know well that it was because of these imminent events—that one could not get near him. The most important reports couldn't be made at that time. Weeks would pass, before these events, when I never reported at all and I suppose that is why there was no opportunity for the Fuehrer to tell me anything of the imminent events. Incidentally, I found out afterwards that the strictest secrecy applied.

Q. What order did you receive on the morning of 15 March, and what happened after that?

A. In the early morning hours of 15 March I received orders to leave by special train. Naturally I was not told where I was going. At that time I knew that this was a trip connected with the negotiations carried out by the Fuehrer during the night; I knew no further details. A few things, of course, had leaked out but I had no authentic information. On the way, of course, it was said that we were going in the direction of Czechoslovakia; but there was still a lot of doubt as to whether we were going to Czechoslovakia at all because Czech resistance was expected. So no destination had been set for this trip. Only in the afternoon of that day on the way was the destination announced, at the time when in Ceska Lipa [Boehmisch Leipa], we left the train to continue our trip via truck. Towards the evening we reached Prague and we were billeted in the castle.

Q. You have just arrived at the castle, and I think that would be a good moment to recess, if I understand the Tribunal correctly.

JUDGE POWERS, PRESIDING: We'll resume at the castle at 1 o'clock and, in the meantime, we will be in recess.

(Recess)

DR. SEIDL: Witness, before the Tribunal recessed you were describing the trip to Prague that you undertook with the Fuehrer on 15 March 1939, and I would like to ask you, Witness, to complete the answer you started.

DEFENDANT LAMMERS: As such, there is nothing I have to add to the answer I gave this morning except perhaps one thing. That is to say that at that very period of time the German troops were marching into Czechoslovakia without meeting any worthwhile resistance.

Q. When, and through what channels, did you for the first time come to hear anything authentic in regard to the events that had already taken place in the meantime?

A. In Prague I was called to the Fuehrer to attend a conference. I found already there the Reich Foreign Minister von Ribbentrop who, as far as I remember, was accompanied by Herr Gaus; and I also found there Reich Minister of the Interior Frick, who was accompanied by State Secretary Stuckart. But there were also other people present there. Maybe Hess, Goebbels, possibly Bormann. There were other people in addition to these named. I wouldn't be able to recall who they were exactly. But I do remember very well indeed what the Fuehrer told us on that occasion. He said that the negotiations that had been conducted the past night had resulted in Czechoslovakia desiring to avoid militant operations, and that it was going to tolerate the German march into Czechoslovakia. Furthermore, the Czech Government had yielded to having the remainder of Czechoslovakia annexed by Germany. However, this was to take place with some form of autonomy. Further, he added that he had decided to establish a protectorate and thereupon he gave us some broad outlines as to the manner in which he thought this could be done. Various discussions followed and particularly detailed discussions followed with Herr Gaus concerning the constitutional nature of such a protectorate, and the statements rendered were laid down as embodied in the decree now introduced into evidence in this trial, bearing the date of 16 March.

Q. Witness, I would now like you to turn to this decree of 16 March 1939, introduced by the prosecution as Exhibit 126,* contained in prosecution document book III B, page 335 of the English and 96 of the German. I now ask you, Witness, in regard to this decree of 16 March 1939, who drafted this decree and on what basis was such elaboration and drafting drawn up?

A. In the night between 15 and 16 March and also in the morning of 16 March, the draft was drawn up by Stuckart, by myself, and also more by various other participating members, including in part also Herr Gaus. In the meantime, on several occasions I had been obliged to request information or a decision from the Fuehrer as to what his idea was in regard to the protectorate to be set up because after all it wasn't a simple thing by any means to enact a protectorate decree, if one didn't even have a clear idea

* Prosecution Document L–360–C not reproduced herein.

as to what kind of protectorate that was supposed to be. Similar institutions under international law, already in existence, after all didn't furnish a very reliable clue in that respect and, as I said before, the draft was elaborated at the order of the Fuehrer and on the basis of the outlines that he had furnished us with, and the result was the decree as introduced in evidence here.

Q. Did you know whether the basic principles established in the decree were in conformity with the agreement reached between Hitler and Hacha?

A. In view of the fact that I didn't attend the negotiations conducted in the preceding night it wasn't possible for me to know whether the statements given by the Fuehrer were in exact conformity with what had been agreed upon in the preceding negotiations. However on the other part I didn't have the slightest reason in the world to have any misgivings as to the correctness of the statements made by the Fuehrer, the Reich Foreign Minister being present, and the other members being present too. I simply had to accept them without any further ado as mandatory and correct.

Q. At that time did you know anything as to the manner in which the agreement had been reached between Hitler and Hacha? Particularly, did you know anything as to whether this agreement had been reached on a voluntary basis or under coercion?

A. From the information that I was furnished I could gather nothing but one thing—that was that it was on a voluntary basis that Hacha had decided to come to this agreement; and in addition to that I had been told that, prior to signing the instrument, he had a lengthy discussion with his Foreign Minister Chvalkovsky; and furthermore I was told that he had had a telephone conversation with the Czech Government in Prague. I don't doubt that he may possibly have been submitted to certain coercion, as is the case in similar international treaties when statesmen present are divided into representatives of a weaker state on the one hand, as opposed to a politically and militarily strong state on the other hand. But nevertheless, such a signature remains a voluntary signature, even if, or perhaps I should say, even because it is given by the weaker party, by reason of the fact that the latter party considers it to be a more reasonable measure to affix the signature preferable to exposing itself to other measures. There are surely a large number of similar examples to be quoted in history in connection with which the voluntary character of the signature was always assumed as being existent even when such pressure was applied. Please just let me call to your mind the signature given in connection with the dictate of Versailles. That too we considered as voluntary signature of a treaty but

surely this was a signature, too, which was achieved under the most vehement pressure possible. As far as the details of the negotiations are concerned I didn't know very much about them and I was furnished just as little with the minutes which were drafted and drawn up by Ambassador Hewel concerning that conference during the night. It was only here in Nuernberg and under arrest that I found these minutes in the document books introduced into evidence and was able to read them at last.

Q. At that time were you in a position which enabled you to judge whether the march of the German troops into the Czechoslovak Republic was in violation of international agreements?

A. I couldn't appraise that by any means. I couldn't appraise, first of all whether any international agreements were in existence, say for example, with Britain and France and so on, which might possibly have prevented the Fuehrer from launching the march into Prague; because you have to bear in mind that, as far as all these diplomatic preliminary negotiations are concerned, I took no part in them, which negotiations had taken place in connection with this problem, first of all in Berchtesgaden, in Godesberg, in Munich, and in other localities. Therefore, I couldn't know and I didn't know whether any binding commitments had been entered into in this connection which might possibly be of a nature to oppose the institution of the protectorate.

Q. What is your duty, Witness? Did you have jurisdiction to check into the question of whether this march into Czechoslovakia was a violation of any aspect of international law?

A. No. I had no jurisdiction to check into that. It wasn't my business because neither the Foreign Minister nor the Fuehrer informed me accordingly, and I already previously took the liberty of pointing out—

JUDGE MAGUIRE, PRESIDING: It's not necessary to repeat, Witness. If you once testified about that it's enough.

DR. SEIDL: Herr Dr. Lammers, I think your answer is adequate to answer the question that I propounded in that connection. I will now pass over to my next question. As a matter of fact the decree concerning the institution of the Protectorate of Bohemia and Moravia was co-signed by you. Wouldn't it have been your duty in that case, in view of your cosignature, to check into the legal validity of this decree?

A. No. Within the framework and limitations of my own jurisdiction it was in connection with the formalistic drafting of the Protectorate decree that I was called in. That was in accordance with the Fuehrer directives, and I did the same in connection with all other decrees and had no misgivings, because I would have had the opportunity to draw attention to any misgivings

that I may have had. But I didn't have any such misgivings, not in view of the basic data that I had been furnished nor in view of my knowledge of actual conditions that prevailed.

Q. Am I to interpret your answer as being that your cosignature only served to certify the validity of the instrument?

A. Quite correct. The same applies to all other decrees.

Q. From your knowledge of conditions as well as from your knowledge of German constitutional law, who was responsible for the factual concepts of the decree?

A. The factual responsibility under the aspects of the foreign policy lay with the Fuehrer and of course in part also with the Minister for Foreign Affairs, who attended these negotiations in the capacity of the departmentally responsible minister. The decree as such does not contain the slightest indication of any crime, nor does this decree issue any authority to commit any crimes; and if the decree were in violation of any international commitments or were in violation of international law, in that case within the limitations of my own jurisdiction, and lacking any jurisdiction to do so, further lacking any participation in the negotiations that preceded the enactment of the decree, it wasn't up to me to do that. I was in no position to do that, that is to check into this decree in any respect whatsoever.

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Q. I have a number of questions in connection with the preceding document, which is Document NG–3204, introduced as Prosecution Exhibit 482,* to be found on page 95 of the English prosecution book 35, which corresponds to page 111 in the German. This document is a decree concerning the right to enact laws in the Protectorate of Bohemia and Moravia, dated 7 June 1939. I think, however, I will be able to be very brief in connection with this exhibit. Who enacted this specific decree?

A. The Fuehrer himself.

Q. For what reason did you co-sign this Fuehrer Decree?

A. For the ever-recurring reason previously stated.

Q. In cosigning did you propose to assume, or could you assume, any factual responsibility?

A. No.

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CROSS-EXAMINATION

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MR. HARDY: Now Dr. Lammers, you touched on, in the course of your direct examination, the power of Reich Ministers under

* Not reproduced herein.

the constitution of Nazi Germany and you have stated that their authority was far less than the authority of Ministers of Germany under previous constitutions; is that correct?

DEFENDANT LAMMERS: The constitutional and political rights of the Reich Ministers were less. Their administrative rights as Chiefs of Ministries were perhaps somewhat larger.

Q. Well now, I wish to hand to you the Reichsverwaltungsblatt of 1938 which contains an article written by you, Reich Minister and Chief of the Reich Chancellery, Dr. Lammers, and I wish to have you turn to page 588, the portion marked in pencil, and read that to yourself please.

MR. HARDY: This, Your Honor, is Document 3863-PS, which I wish to mark for identification as Prosecution Exhibit 3888.*

Now, if you will kindly read that to yourself please, Dr. Lammers? Now just a moment, I will ask you the questions when you have finished reading. You have finished reading that section, have you?

A. No. I am just about to start to do so.

Q. Will you do that please? Now, Dr. Lammers, this is a speech, is it not, which you delivered?

A. Yes, that's a speech I delivered in the Academy of Administration.

Q. And that was delivered in the year 1938, is that right?

A. 21 June 1938.

Q. Now I wish to call to your attention that section which I had you read, particularly the portion which reads, after you have referred to the Fuehrerprinzip, the portion which reads: "The principle is manipulated by the Fuehrer in his government leadership in such a manner that, for example, the position of the Reich Ministers is actually much more independent today than formerly even though today the Reich Ministers are subordinated to the Fuehrer's unlimited power of command in their entire official sphere even in every individual measure and decision in the most trivial matters. Willingness to bear responsibility, ability to make decisions, aggressive energy and real authority, these are the qualities which the Fuehrer demands primarily of his subordinate leaders. Therefore, he allows them the greatest freedom in the execution of their affairs and the manner in which

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* Document 3863-PS, Prosecution Exhibit 3888, is not reproduced herein. It contained extracts from a series of lectures given by the defendant Lammers in the year 1938. The lectures were reproduced in Reichsverwaltungsblatt, volume 59, number 28, Berlin, 9 July 1938, under the title "The State Leadership in the Third Reich" and the part of the lectures from which these extracts were taken was subtitled "The Leadership State" (Der Fuehrerstaat). This document was introduced in the IMT trial as Exhibit GB-320 and the German text of the extracts is reproduced in Trial of the Major War Criminals, volume XXXIII, pages 273-275.

they fulfill their task. Nothing is more foreign to him than narrow or faultfinding criticism." Now, is that consistent with the authority and position of the Reich Ministers which you have here for several days portrayed to this Tribunal?

A. That corresponds to what I have said. If you read this sentence in connection with what I have elsewhere said, or indeed if you read it alone, then you see that I am here referring only to the various Reich Ministers as the Chiefs of their Ministries in which the Fuehrer gives them the utmost freedom, but the statements do not refer to what I testified to, namely, that the ministers were no longer political ministers but merely chiefs of their respective administrative units. This sentence which you have torn entirely out of the context refers only to that.

Q. Fine, thank you. Now, when you were appointed State Secretary and Chief of the Reich Chancellery in 1933 that entailed, did it not, membership in the Reich Cabinet?

A. No. The business order of the Reich government was what defined that and the constitution—

Q. All right, your answer of "no" is sufficient. Now, if I remember correctly, during your State Secretaryship which lasted until 1937, you did not cosign laws and decrees except in a very few and sporadic cases, is that right?

A. Not entirely. I have mentioned that on occasion even a State Secretary signed laws and decrees but those were only the published decrees. Of course, during this period I also cosigned a lot of decrees and matters that were not made public.

Q. All right. Now, then in 1937 when Hitler made you a Reich Minister, then you became a member of the Reich Cabinet, didn't you?

A. As I said yesterday, I then became a member of this Reich government,—

Q. That is good.

A. —with the powers that members of it then had.

Q. Fine. Now, then from the time that you became a Reich Minister, then your signature appears on a multitude of various laws and decrees which were enacted by various legislative agencies of the Third Reich, isn't that right?

A. I very frequently signed, yes.

Q. And this right came to you as a Reich Minister, is that not true?

A. No. I didn't have that right for that reason. I should probably have had to take over this task to the same extent had I remained State Secretary. In my direct examination I explained in detail how it came about that I cosigned in this way so that some control might be exercised over their legislation—

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Q. All right, all right. Now, when you assumed the office as State Secretary, Hitler told you, did he not, that he did not want to sign papers unless it was absolutely necessary?

A. Only when it was absolutely necessary, that is correct.

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Q. Now, as I understand it, Dr. Lammers, it was up to you, was it not, to determine whether or not drafts of Fuehrer decrees were to be communicated to Cabinet members before they were to be submitted to Hitler?

A. Of course I had general instructions to make available to competent Ministers all incoming drafts so that they might express their opinion. That was my task in such cases. I could only then report to the Fuehrer when I had cleared up the facts of the case and when I knew the opinions of the other Ministers. That was the normal route.

Q. Now, in your capacity as Cabinet Minister, was your position somewhat analogous to the position of Keitel who was head of the Military Chancellery?

A. Not quite or not entirely. First of all, Keitel was entrusted with the task of the Reich Minister of War. Nevertheless, he had a Ministry. For certain military matters his position is comparable to mine so far as military and civilian matters are comparable at all. There was only one important difference. The Chief of the OKW, Keitel, very frequently signed things bearing the designation, the heading "The Fuehrer and Commander in Chief of the Wehrmacht" and these things the Fuehrer himself did not sign, but Keitel did "by order" ["Im Auftrag" and "auf Befehl"]. Now that form I did not myself choose, I only saw to it that the things that the Fuehrer had to sign, he himself did sign after I had examined them and submitted them to him as per instructions.

Q. Well now, it is true that you signed approximately twenty-two decrees between 1940 and 1945 bearing Hitler's signature, isn't that right, and your signature?

A. I don't know the exact number. As a matter of principle I cosigned all orders and decrees, though surely some were sent out without my cosignature. I can't add them all up now, I could only do so if I had the Reich Law Gazette, and furthermore the files of the Reich Chancellery from which it could be seen what unpublished matters the Fuehrer signed and I cosigned.

Q. All right. Now, then, the drafts for these Fuehrer decrees which were legislative enactments by the Fuehrer were generally formulated by you as head of the Reich Chancellery, is that right?

A. No. The rule was that the Ministry applying for such legislation, or the competent Minister—

Q. Just a minute. Let me withdraw that question and let me rephrase it. I should have known better than to phrase it that way. You did formulate, however, a vast number of these decrees in your Chancellery, didn't you?

A. Not a large number. Some of them, if they were brief matters which no other Ministry was competent for. That was the normal course because in general the competent Ministry delivered also the draft whether or not that was a decree or an ordinance or any other letter that was to be published which the Fuehrer had to sign.

Q. Well, now, after you had submitted the draft to the Fuehrer for his signature, you made distribution to these agencies concerned with the implementation of the decree, didn't you?

A. If the decree was signed then I published it and drew the attention to it of all Ministries concerned, or else it was published in the Reich Law Gazette.

Q. Then in all cases you did not submit to Ministries concerned with this implementation the decrees for their approval and perusal prior to getting the Fuehrer's signature on it, did you?

A. I have already said that it was my task, both in the Reich Cabinet and in the Ministerial Council for Defense of the Reich, to hear the points of view of all parties concerned because it was my duty not to submit anything for signature to the Fuehrer unless all participants had been heard theretofore. That is why I distributed the drafts, and indeed that is prescribed in the rules as the duty of the State Secretary of the Reich Chancellery that such distribution be carried out.

* * * * * * *

Q. Now, Witness, you drafted and cosigned the Fuehrer Decree of 16 March 1939,[1] which created the Protectorate of Bohemia and Moravia, and incorporated the territory of the Czechoslovakian Republic into the Reich, didn't you?

A. I did not draw up that draft alone. I collaborated in the elaboration of it and I put to it my usual signature.

Q. And the Reich Protector of Bohemia and Moravia was directly subordinated to Hitler, wasn't he?

A. Yes.

Q. And you received complete and regular reports on the situation in the Protectorate, didn't you?

A. No, not complete and regular reports; that I cannot say.

Q. Well, you did receive, however, the report dated 2 May 1939, which is Document NG–1817, Prosecution Exhibit 481,[2] found in book 35, on page 91? That's page 104 of the German. Now you received that report, didn't you?

[1] Document TC–51, Prosecution Exhibit 126, reproduced earlier in this section.

[2] Reproduced earlier in this section.

A. What page did you say, please?

Q. Page 107 of the German—pardon me, 107, page 91 of the English.

A. That is a letter from Stuckart to me.

Q. Yes. And you received that, didn't you?

A. I must have received it, yes.

Q. And now this report tells us in rather clear language how very little the Czechs appreciated the privilege of the protection afforded them by Hitler, doesn't it?

A. This is not a report by Stuckart but Stuckart reports only regarding that which Frank has reported: and it bears witness to a rather unfriendly mood. That I will not deny.

* * * * * * *

Q. Now, when you went to Prague on 15 March 1939 the German troops were then marching into Czechoslovakia, weren't they?

A. During the period of my trip the march into Czechoslovakia took place.

Q. Then, the march into Czechoslovakia was simultaneous with your trip to Prague. Is that right?

A. The march of troops was at the same time, on the basis of the agreement reached with Hacha on the previous night.

Q. And you were in Prague after it had already been occupied by the military?

A. I found the German troops present there.

Q. Now, on 26 September 1938, in the Hitler speech, don't you recall then that he stated that he was no longer interested in the Czech State and that he would guarantee it provided the Sudetenland would be ceded to Germany?

A. I don't remember Hitler's speeches so precisely as to permit me to give you a precise answer. Maybe you could put those speeches to me. Perhaps, then, I could remember them.

Q. Well, let me ask you, then, just from your memory: The speech at the Sportpalast in Berlin 28 September 1939, which was a widely publicized speech, known to almost every German. Now, did you yourself or do you remember that Hitler assured protection to the Czech State if he was given the Sudetenland?

A. Today, after almost a decade, I cannot exactly recall what was said then. If you will put it to me I won't dispute that it was said.

Q. All right, if you won't dispute that it was said, then will you agree that Hitler had broken his assurance when he marched into Czechoslovakia?

A. I could only know that after I knew what he actually said.

Q. Then you signed, on 16 March 1939, the decree concerning the Protectorate of Bohemia and Moravia, didn't you?

A. Yes. That is so.

Q. Now, when did you arrive in Prague? On 15 March 1939?

A. Late afternoon or the evening of 15 March.

Q. And when did you start drafting the decree?

A. As soon as I received the Fuehrer order to work on this in conjunction with others.

Q. When was that? The first of March 1939?

A. No. On 15 March in Prague in the evening.

Q. Well now, you have stated to this Tribunal that the drafting of this decree involving the establishment of the Protectorate confronted you and the defendant Stuckart with intricate legal problems. Now, do you wish to tell us you completed the preparation and study for the promulgation of that decree in a matter of minutes or hours on the evening of 15 March?

A. No. It took all night and the next morning too until that decree was finally drawn up.

* * * * * * *

E. The Invasion of Poland

TRANSLATION OF DOCUMENT NG-5609-A*
PROSECUTION EXHIBIT 3545

STATEMENT OF PRIME MINISTER CHAMBERLAIN IN THE HOUSE OF COMMONS, 31 MARCH 1939, CONCERNING ASSURANCES OF BRITISH SUPPORT TO POLAND IN THE EVENT OF ACTION THREATENING POLISH INDEPENDENCE

Statement made by Mr. Chamberlain, British Prime Minister, in the House of Commons, 31 March 1939

As I said this morning, His Majesty's Government have no official confirmation of the rumors of any projected attack on Poland and they must not, therefore, be taken as accepting them as true.

I am glad to take this opportunity of stating again the general policy of His Majesty's Government. They have constantly advo-

* This document was taken from item No. 279 of the German White Book on Poland, a book entitled "Documents Concerning the Last Phase of the German-Polish Crisis" which was published in the early days of September 1939. See Document NG-4045, Prosecution Exhibit 3666, reproduced later in this section. In the case of this document and numerous other documents herein taken from this source, it is not known whether or not the translator had access to copies of the original English version.

cated the adjustment, by way of free negotiation between the parties concerned, of any differences that may arise between them. They consider that this is the natural and proper course where differences exist. In their opinion there should be no question incapable of solution by peaceful means and they would see no justification for the substitution of force or threats of force for the method of negotiation.

As the House is aware, certain consultations are now proceeding with other governments. In order to make perfectly clear the position of His Majesty's Government in the meantime before those consultations are concluded, I now have to inform the House that during that period, in the event of any action which clearly threatened Polish independence and which the Polish Government accordingly considered it vital to resist with their national forces, His Majesty's Government would feel themselves bound at once to lend the Polish Government all support in their power. They have given the Polish Government an assurance to this effect.

I may add that the French Government authorized me to make it plain that they stand in the same position in this matter as do His Majesty's Government.

TRANSLATION OF DOCUMENT NG–5609–B
PROSECUTION EXHIBIT 3546–A

TELEGRAM FROM DEFENDANT WEIZSAECKER TO THE GERMAN AMBASSADOR IN WARSAW, 3 APRIL 1939, CONCERNING BRITISH ASSURANCES TO THE POLISH GOVERNMENT*

The State Secretary at the Foreign Office to the German Ambassador in Warsaw

Telegram

Berlin, 3 April 1939

The assurance of assistance given to Poland by British Government and announced by Mr. Chamberlain in House of Commons on 31 March is, according to its wording, only temporary. It is to make perfectly clear British position during the time necessary to bring British consultations with other governments to final conclusion. As the British Government themselves have been obliged to issue a *dementi* concerning rumors of an imminent German attack on Poland, the giving of assurance of support to Poland in advance was by no means justified by foreign political

* This document was taken from the German White Book on Poland, item No. 282.

situation; but due rather to British Government's thinking it desirable to announce to the world and their own already impatient public opinion some result of the busy diplomatic endeavors begun by Foreign Office on 18 March.[1]

The speech which the Fuehrer made on Saturday at Wilhelmshaven clearly expresses our attitude toward the British attempt at encirclement [Einkreisungsversuch], and defines the dangers incurred by those countries which allow themselves to be drawn into this attempt.

WEIZSAECKER

PARTIAL TRANSLATION OF DOCUMENT C–120 PROSECUTION EXHIBIT 143

COVER LETTER AND DIRECTIVES FROM THE HIGH COMMAND OF THE ARMED FORCES TO THE ARMY, NAVY, AND AIR FORCE, 3 APRIL 1939, CONCERNING "CASE WHITE"

[Stamp:] Top secret

[Stamp]
Matter for Chiefs
Through officers only

[Handwritten]: 1 Naval War Staff, 1 op 43/39

High Command of the Armed Forces Berlin, 3 April 1939
Armed Forces Operations Office
No. 37/39, Top Secret, Matter for Chiefs L Ia

5 copies, 2d copy

Subject: Directive for the Armed Forces 1939/40

"Directive for the Uniform Preparation of War by the Armed Forces for 1939–40" ["Weisung fuer die einheitliche Kriegsvorbereitung der Wehrmacht fuer 1939–40"] is being reissued.

[Handwritten] is attached

Part I ("Border Security") and part III ("Danzig") will be issued by the middle of April. Their basic principles remain unchanged.

Part II "Case White"[2] is attached herewith. The signature of the Fuehrer will be appended later.

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[1] Reference is made to the British diplomatic endeavors following the destruction of the Czechoslovak Republic on 15 March 1939.

[2] "Fall Weiss," Case White, was the code name for the event of war with Poland. Document C–120, dealing with "Case White," contains a number of related but separate documents, the full German text of which is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXIV, pages 380–422. The translation of parts of this document is reproduced here. Document C–120 also was received in evidence in the High Command case as Prosecution Exhibit 1079, and longer translated extracts from the document are reproduced in section VI D, volume X, this series.

The Fuehrer, in addition, has issued the following directives concerning the "Case White":

1. It must be drawn up so as to make possible its execution at any time starting 1 September 1939.

2. OKW is charged to draw up a precise time table for "Case White" and to arrange by conferences the synchronized timings between the three branches of the armed forces.

3. The plans of the branches of the armed forces and the details for the time table must be submitted to the OKW by 1 May 1939.

The Chief of the High Command of the Armed Forces

[Illegible handwriting]

Ia G. 3/4

Distribution list:

[Signed] KEITEL

High Command of the Army	1	(Control No. 1).
High Command of the Navy	1	(Control No. 2).
Reich Minister for Aviation and Commander in Chief Air Force	1	(Control No. 3).
OKW (National Defense)	2	(Control Nos. 4 and 5).
	5	

Annex to OKW No. 37/39 Top Secret
Matter for Chiefs WFA/L I, 11 April 1939
(Enclosure I)

[Stamp]
Top Secret

[Stamp]
Matter for Chiefs

Through officer, only

Special Directive for "Border Security"

1. *Issuing of orders.* The order to carry out measures for the protection of the border will be given by the OKW. The extent of the measures for the protection of the border, depends on the situation.

Only in the case of a sudden enemy *attack,* has the competent local commander to order the required measures on his own within the necessary limits.

* * * * * * *

Enclosure II to OKW 37/39 Top Secret, Matter for Chiefs L I.

[Stamp]
Top Secret

II

"FALL WEISS"

5 copies, 2d. copy

The present attitude of Poland requires, beyond the afore-mentioned "Border Security East," the effecting of military prepara-

tions to exclude, if necessary, all danger coming from this direction forever.

1. *Political Requirements and Aims*—The German relations with Poland continue to be based on the principle of avoiding any disturbances. Should Poland, however, change her policy towards Germany, based up to now on the same principles as our own, and adopt a threatening attitude towards Germany—a final settlement [endgueltige Abrechnung] may become necessary, notwithstanding the pact in effect with Poland.

The *aim* is then to destroy Polish military strength and create in the East a situation which satisfies the requirements of national defense. The Free State of Danzig will be proclaimed as a part of the Reich territory at the outbreak of the conflict, at the latest. The political leadership considers it its task in this case to isolate Poland if possible, that is to say, to limit the war to Poland only.

The development of increasing internal crises in *France* and the resulting *British* cautiousness might produce such a situation in the not too distant future.

A *Russian* intervention, insofar as she would be able to do this, will not be of any use for Poland as far as can be seen because this would imply Poland's destruction by bolshevism.

The attitude of the *Baltic States* [Randstaaten] will be determined fully by German military exigencies. [The following sentence was crossed out in the original: "Within the course of the ulterior development it may become necessary to occupy the Baltic States up to the frontier of former Courland (Kurland) and to incorporate them into the Reich."]

[Handwritten] according to OKW 37/39 of 13 April * * *

On the German side, *Hungary* cannot be considered as a certain ally. *Italy's* attitude is determined by the Berlin-Rome Axis.

2. *Military Conclusions*—The great aims in the building-up of the German armed forces continue to be determined by the antagonism of the western democracies. The "Case White" forms only a precautionary complement to these preparations; it is however in no way to be looked upon as the necessary preliminary condition for a military settlement [Auseinandersetzung] with the western opponents. The isolation of Poland will be more easily maintained, even after the beginning of war, the more it is possible to begin the war with heavy, sudden blows and to lead it to rapid successes. The entire situation will require, however, in any event, that precautions to secure the western boundary and the German North Sea coast, as well as the air over them, be effected. Against the Baltic States—Lithuania in particular—security measures are to be carried out in the event of a Polish march through this country.

3. *Tasks of the Armed Forces*—The task of the armed forces is to destroy the Polish armed forces. For this reason a surprise attack [euberraschender Angriffsbeginn] is to be striven for and prepared. A camouflaged, or open, general mobilization will not be ordered before the day prior to the attack at the latest possible moment.

The forces provided for the "Border Security West" (see annex I, "Border Security") are not supposed, for the moment, to be employed for any other purpose. All other frontiers are only to be observed, the Lithuanian frontier is to be covered.

* * * * * * *

4. *Tasks of the Branches of the Armed Forces*—

* * * * * * *

c. Air Force—The air force, except for necessary forces left in the West, is to be used for a surprise attack against Poland [ueberfallartig gegen Polen einzusetzen].

Besides destruction of the Polish air force in the shortest time possible—the tasks of the German air force are principally as follows:

(1) Interference with the Polish mobilization and prevention of planned Polish strategic concentrations.

(2) Tactical support of the army, especially support of the spearheads, starting immediately after the crossing of the frontier.

* * * * * * *

Annex to OKW No. 37/39 g. K.
Chefs. WFA/L 1 of 11 April 1939
(Enclosure II)

[Stamp] Top Secret
Through officers only

Special orders for "Case White"

1. *Legal Basis*—We must start with the fact that the "State of Defense" or the "State of War" in the meaning of the R.V. Gesetz [Reich Defense Law] of 4 September 1938, *will not be declared.*

All actions and requirements are to be based on peace-time legislation. The Provisions of the Hague Convention on Land Warfare are valid accordingly. The right to issue supplements is retained.

* * * * * * *

Annex III to OKW. Nr. 37/339 Top Secret Matter for Chiefs. WFA/L I.

Top secret, by officer only

5 copies, 2d copy

III

Annexation [Inbesitznahme] of Danzig

A surprise occupation [handstreichartige Besetzung] of the Free State of Danzig may come into consideration, independently of the "Case White," to exploit a favorable political situation.

* * * * * * *

TRANSLATION OF DOCUMENT NG-2016
PROSECUTION EXHIBIT 144

TELEGRAM FROM DEFENDANT VON WEIZSAECKER TO THE GERMAN AMBASSADOR IN WARSAW, 5 APRIL 1939, CONCERNING NATURE OF REPRESENTATIONS TO BE MADE CONCERNING THE POLISH QUESTION

Berlin, 5 April 1939 To Pol. V*

Diplogerma
Warsaw

Telegram in Cipher

(Top secret matter)

To the Ambassador personally:

It is probable that Lipski will be received here once more before Easter. On this occasion the following points should be brought up in reference to the last discussion between Lipski and the Foreign Minister of the Reich:

Our offer made to Poland was made but once. Apparently the Polish Government did not entirely comprehend the significance of this offer. We cannot help that. The future will show whether Poland was well advised. Lipski's counterproposal has, as you know, been rejected already as a basis for negotiations by the Foreign Minister of the Reich.

No more explanations to Lipski.

It is requested not to go into any further discussions about the German offer and the Polish counterproposal. We must prevent Poland from throwing the ball back to us and later on making out that we had disregarded a Polish offer. Other important mis-

* Political Division V (Pol. V) was that subdivision of the Political Division of the Foreign Office concerned with eastern Europe, including Poland, Danzig, and the Soviet Union.

sions are likewise instructed not to enter into any material discussion with regard to the Polish question but rather to evade the issue calmly and give no indication as to German intentions in the future.

WEIZSAECKER

TRANSLATION OF DOCUMENT NG–5609–L PROSECUTION EXHIBIT C–388

ORDER FROM THE GERMAN FOREIGN OFFICE, SIGNED BY DEFENDANT WOERMANN, TO THE GERMAN AMBASSADOR IN LONDON, 11 MAY 1939, CONCERNING THE USE OF REPORTS OF GERMAN CONSULAR AGENTS ON DEVELOPMENTS IN POLAND[1]

The German Foreign Office to the German Ambassador in London

Order

Berlin, 11 May 1939

In consequence of an intensified campaign of hate systematically carried on by the anti-German organizations despite continued and serious representations on the part of the German Government, persecution of all classes belonging to the German minority in Poland, especially in the former Prussian provinces, has, for some considerable time, been on the increase. From the attitude of Polish Government departments it must be inferred that they are neither seriously inclined nor apparently in a position to put a stop to this development. Since the German minority press in Poland is prevented by rigorous censorship from reporting fully on these anti-German excesses, the reports by the German consular agents in Poland are, apart from reports by the German News Bureau [Deutsches Nachrichtenburo], the only reliable source of information shedding a light on the actual position of the German minority. I enclose herewith copies of a number of such reports on anti-German measures and incidents, and further reports will, in future, be regularly submitted for your information, with the request that you make the best possible use of this material in your contacts with the British Government.[2]

BY ORDER:
WOERMANN

[1] This document was taken from the German White Book on Poland, item No. 368.
[2] The German Embassy in London made use of the reports accordingly.

DOCUMENT NG–1429*
PROSECUTION EXHIBIT 377

TELEGRAM FROM PRESIDENT ROOSEVELT TO HITLER, 15 APRIL 1939, CONCERNING SETTLEMENT OF INTERNATIONAL ISSUES BY THE "THREAT OF ARMS," REQUESTING ASSURANCE THAT GERMANY WOULD NOT ATTACK OR INVADE SPECIFIED COUNTRIES, AND RELATED MATTERS

Telegram From Washington. The White House 15 April 1939

His Excellency Adolf Hitler
Chancellor of the German Reich

[Handwritten initial] W. [Woermann] 15 [April]

Berlin

You realize I am sure, that throughout the world, hundreds of millions of human beings are living today in constant fear of a new war or even a series of wars. The existence of this fear, and the possibility of such a conflict, is of definite concern to the people of the United States for whom I speak, as it must also be to the peoples of the other nations of the entire Western Hemisphere. All of them know that any major war, even if it were to be confined to other continents, must bear heavily on them during its continuance and also for generations to come. Because of the fact that after the acute tension in which the world has been living during the past few weeks there would seem to be at least a momentary relaxation because no troops are at this moment on the march, this may be an opportune moment for me to send you this message. On a previous occasion I have addressed you in behalf of the settlement of political, economic, and social problems by peaceful methods and without resort to arms. But the tide of events seems to have reverted to the threat of arms. If such threats continue, it seems inevitable that much of the world must become involved in common ruin. All the world, victor nations, vanquished nations, and neutral nations will suffer. I refuse to believe that the world is, of necessity, such a prisoner of destiny. On the contrary, it is clear that the leaders of great nations have it in their power to liberate their peoples from the disaster that impends. It is equally clear that in their own minds and in their own hearts the peoples themselves desire that their fears be ended. It is, however, unfortunately necessary to take cognizance of recent facts. Three nations in Europe and

* This document also contains the results of a German inquiry to foreign countries on Roosevelt's message, together with a report on the results addressed to von Weizsaecker; von Ribbentrop's instructions to German diplomatic missions concerning this inquiry; and related materials, including two inter-office notes and a telegram "Signed: von Weizsaecker" and various German press releases.

one in Africa have seen their independent existence terminated. A vast territory in another independent nation of the far east has been occupied by a neighboring state. Reports, which we trust are not true, insist that further acts of aggression are contemplated against still other independent nations. Plainly the world is moving toward the moment when this situation must end in catastrophe unless a more rational way of guiding events is found. You have repeatedly asserted that you and the German people have no desire for war. If this is true there need be no war. Nothing can persuade the peoples of the earth that any governing power has any right or need to inflict the consequences of war on its own or any other people save in the case of self-evident home defense. In making this statement we as Americans speak not through selfishness or fear or weakness. If we speak now it is with the voice of strength and with friendship for mankind. It is still clear to me that international problems can be solved at the council table. It is, therefore, no answer to the plea for peaceful discussion for one side to plead that unless they receive assurances beforehand that the verdict will be theirs, they will not lay aside their arms. In conference rooms, as in courts, it is necessary that both sides enter upon the discussion in good faith, assuming that substantial justice will accrue to both: and it is customary and necessary that they leave their arms outside the room where they confer. I am convinced that the cause of world peace would be greatly advanced if the nations of the world were to obtain a frank statement relating to the present and future policy of governments; because the United States, as one of the nations of the Western Hemisphere, is not involved in the immediate controversies which have arisen in Europe, I trust that you may be willing to make such a statement of policy to me, as the head of a nation far removed from Europe, in order that I, acting only with the responsibility and obligation of a friendly intermediary, may communicate such declaration to other nations now apprehensive as to the course which the policy of your government may take. Are you willing to give assurance that your armed forces will not attack or invade the territory or possessions of the following independent nations: Finland, Estonia, Latvia, Lithuania, Sweden, Norway, Denmark, the Netherlands, Belgium, Great Britain and Ireland, France, Portugal, Spain, Switzerland, Liechtenstein, Luxemburg, Poland, Hungary, Rumania, Yugoslavia, Russia, Bulgaria, Greece, Turkey, Iraq, the Arabias, Syria, Palestine, Egypt, and Iran. Such an assurance clearly must apply not only to the present day but also to a future sufficiently long to give every opportunity to work by peaceful methods for a more permanent peace. I therefore suggest that you construe the word quote future unquote to apply to a minimum period of assured

nonaggression—ten years at the least—a quarter of a century, if we dare look that far ahead. If such assurance is given by your government, I will immediately transmit it to the governments of the nations I have named and I will simultaneously inquire whether, as I am reasonably sure, each of the nations enumerated above will in turn give like assurance for transmission to you. Reciprocal assurances such as I have outlined will bring to the world an immediate measure of relief. I propose that if it is given, two essential problems shall promptly be discussed in the resulting peaceful surroundings, and in those discussions the Government of the United States will gladly take part. The discussions which I have in mind relate to the most effective and immediate manner through which the peoples of the world can obtain progressive relief from the crushing burden of armament which is each day bringing them more closely to the brink of economic disaster. Simultaneously, the Government of the United States would be prepared to take part in discussions looking towards the most practical manner of opening up avenues of international trade to the end that every nation of the earth may be enabled to buy and sell on equal terms in the world market as well as to possess assurance of obtaining the materials and products of peaceful economic life. At the same time, those governments other than the United States which are directly interested could undertake such political discussions as they may consider necessary or desirable. We recognize complex world problems which affect all humanity but we know that study and discussion of them must be held in an atmosphere of peace. Such an atmosphere of peace cannot exist if negotiations are overshadowed by the threat of force or by the fear of war. I think you will not misunderstand the spirit of frankness in which I send you this message. Heads of great governments in this hour are literally responsible for the fate of humanity in the coming years. They cannot fail to hear the prayers of their peoples to be protected from the foreseeable chaos of war. History will hold them accountable for the lives and the happiness of all—even unto the least. I hope that your answer will make it possible for humanity to lose fear and regain security for many years to come. A similar message is being addressed to the Chief of the Italian Government.

FRANKLIN D. ROOSEVELT

TRANSLATION OF DOCUMENT NG-5609-C*
PROSECUTION EXHIBIT 3546-B

NOTES OF DEFENDANT VON WEIZSAECKER, 26 APRIL 1939, CONCERNING A DISCUSSION WITH BRITISH AMBASSADOR HENDERSON IN WHICH GREAT BRITAIN'S GUARANTEE TO POLAND WAS DISCUSSED

Notes of the State Secretary of the Foreign Office

Berlin, 26 April 1939

The British Ambassador, who came to the Foreign Office today to communicate to me Mr. Chamberlain's announcement of compulsory military service, made the following explanations in the course of his visit:

Mr. Chamberlain's policy was one of peace; yet Mr. Chamberlain believed that the best way of preserving peace was to be found in an absolutely clear demonstration of British preparedness to fight if necessary, and to defend themselves against aggression. The British Government, however, was determined, as always, to do everything that lay in their power to preserve peace and to seek for a satisfactory solution of the difficulties without recourse to war. The government did not deny that problems existed but were convinced that they could be solved without a world war. The government had no aggressive intentions and did not wish to be drawn by others into aggressive actions. If they had openly declared themselves ready to oppose the aggressive actions of a third party under certain specified circumstances, this had been done in the hope of avoiding incidents which could lead to war, but was meant in no way to encircle or threaten Germany or Italy.

In reply to Henderson's carefully worded communication I answered quite briefly with the remark that we judged the British Government according to their deeds and not their words. There would be no sense in my indulging in arguments, seeing that anyhow the Fuehrer would be speaking in 2 days' time—the Fuehrer's speech was already at the printer's. There was one remark which I could not help making—the British guarantee to Poland was certainly the means most calculated to encourage Polish subordinate authorities in their oppression of Germans there . Consequently it did not prevent but, on the contrary, provoked incidents in that country [Gebiet].

WEIZSAECKER

* This document was taken from the German White Book on Poland, item No. 293.

TRANSLATION OF DOCUMENT NG–5609–D
PROSECUTION EXHIBIT 3546–C

NOTES OF THE DEFENDANT VON WEIZSAECKER, 8 MAY 1939, CONCERNING A DISCUSSION WITH FRENCH AMBASSADOR COULONDRE ON THE POSSIBILITY OF GERMAN-POLISH CONVERSATIONS AND BRITISH GUARANTEE TO POLAND[1]

Notes of the State Secretary of the Foreign Office

Berlin, 8 May 1939

The French Ambassador paid me his first visit since his return from several weeks' stay in France. We did not mention the rather stormy conversation which we had had on 18 March after the Czech affair. Rather, M. Coulondre assured me he had returned to Berlin to continue the task he had set himself from the beginning, namely, the work of appeasement in German-French relations. It was true, he no longer had the broken threads in his hands and M. Daladier, especially, had still a decidedly bitter taste in his mouth after the events of March. All the same he, Coulondre, would certainly do his best for German-French relations.

Passing on to the topic of Poland, M. Coulondre asked about the possibility of new German-Polish conversations. I tried to make it clear to the Ambassador that M. Beck's[2] attitude was a very sterile one. M. Beck, in his reply to us, had ensconced himself like a Pasha in his chair and left it to us to begin the conversation if we were willing to conform to his principles. I remarked that in face of an attitude like that, one did not know where to begin. Moreover the Fuehrer had said that his offer would be made once and only once. The course of action adopted by the demi-gods in western Poland towards our German minority appeared dangerous to me. Incidents with serious consequences might easily happen there. When M. Coulondre interposed the remark France was cautioning Warsaw against such stupidities, I answered that it appeared to me, unhappily, that Warsaw was holding the reins too loosely, and was simply not taking adequate steps to prevent such incidents. I had rather failed to see the wisdom of the British Government in the last few weeks. The British guarantee to Poland was like offering sugar to an untrained child before it had learned to listen to reason.

WEIZSAECKER

[1] This document was taken from the German White Book on Poland, item No. 298.
[2] Colonel Jozef Beck, Foreign Minister of Poland, 1932–39.

933764O—51——66

PARTIAL TRANSLATION OF DOCUMENT 1365-PS
PROSECUTION EXHIBIT 487

LETTER FROM SCHICKEDANZ, STAFF LEADER OF THE FOREIGN POLITICAL OFFICE OF THE NAZI PARTY, TO DEFENDANT LAMMERS, 15 JUNE 1939, TRANSMITTING "THE PLAN FOR THE EAST"[1]

15 June 1939

4617/39 Schi/Ba

To the Reich Minister and Chief of the Reich Chancellery,

Dr. Hans Heinrich Lammers

Berlin W 8, Voss Strasse No. 6

East Europe

Top Secret!

Dear Minister Lammers:

I am enclosing the plan for the East [Ausarbeitung ueber den Osten]. I have tried to keep the synopsis as short as possible. The main questions have only been touched upon in order not to go into too great detail.

The entire Jewish question in Poland has not been taken into consideration. On the basis of various Jewish publications, I believe that the number of Jews in Poland—and especially in Galicia and Volhynia, where their numbers are highest—have so far been greatly underestimated. Their total number there probably represents the largest Jewish reservoir. A vital source of Jewish life which should not be underestimated.

Furthermore I am enclosing a Swiss population map,[2] which reproduces the treated territory especially clearly. This map is—from the German point of view—not quite indisputable, as the Greater Ukranian territory is much too small in comparison with the Greater Russian [territory]. Also the marking [Einzeichnung] of the special [eigenstaendigen] Don and other Kossack territories are missing. However, this map is especially interesting because it originates in Switzerland.

On this map, West-Ukraine is marked not much smaller than the entire Polish territory; together with West-White-Ruthenia

[1] A receipt attached to this document indicated that the Reich Chancellery received it on the same day as the letter was sent 15 June 1939.

[2] This map was not introduced in evidence.

this territory is larger than the territory marked for the entire Polish population.

Heil Hitler!

2 enclosures.

(SCHICKEDANZ)*

[Enclosure]

The Eastern European Questions.

In the future, timely political preparations [rechtzeitigen politischen Vorkehrungen] in addition to the purely military preparations [rein militaerischen Vorbereitungen] will be of decisive significance for the solution of the eastern European questions. In addition to the downright power rule [rein machtmaessigen Beherrschung] of territories possibly to be acquired in the East during the time of war, it should be decisive for the future organization of the entire eastern area to subject the population of those territories to a political-psychological treatment [politsch-psychologische Bearbeitung]: on the one hand in order to aid the purely military operations, on the other hand for a possible utilization of certain nationalities for the German interests. The point of view can undoubtedly be justified that the German war leaders in the West would have achieved different results if the political leaders had convinced themselves in good time of the significance of the Flemish question. In addition to the purely military operation, a happier solution of that question would have brought about a different solution in the German interest even in the course of the World War, which would not have failed to exert its effects upon the purely military struggle. But such a politically creative treatment of existing possibilities was far removed from the leadership of the German Reich at that time. In contrast to that attitude, the Fuehrer applied it most recently in the southeast area of the Reich. Its validity, however, extends further to the entire East.

Poland.

Utilizing the Vistula-Oder-San area as a basis, the Poles always fought in two directions for predominance—a western and an eastern direction.

Always depending on the existing circumstances, the western direction either leaned towards the German Reich or it attempted

* Alfred Rosenberg was the Chief of the Foreign Political Office (Aussenpolitisches Amt) of the NSDAP, and Schickedanz was Staff Leader (Stabsleiter) of this Party organization. Schickedanz later became defendant Lammers' representative to the Governor General of the Occupied Polish Territory. See Document NG-2493, Prosecution Exhibit 494, reproduced in part later in this section.

—during her weaker periods—to become her opponent; while the eastern, Greater Polish—Lithuanian direction endeavored to take over the heritage of the one-time Kiev Empire. The historical facts have proven that Poland was too weak for that second task which she took upon herself and that, therefore, she always became in the end the prey of the growing Moscow Empire. The leading classes in Poland always believed themselves culturally superior to the East.

In spite of all political defeats they never lost their internal intellectual predominance. The attitude towards the West was and still is entirely different. Poland is aware of her inadequacy with respect to the West and her reaction is motivated by a feeling of insecurity which is dominated by inferiority complexes and which turns into an attitude of superiority and boasting [Grossmannsucht und Prahlerei]. In that respect the Poles are aided by a considerable number of Nordic racial factors which they absorbed and which give them a certain stubbornness and power to resist. At Versailles, Poland could not fully realize her alleged claim to a soil which was ethnically German. But the agitation for it by the National Democratic Party never ceased. On the contrary, it increased after the first attempt to return to the eastern direction and to conquer Kiev failed. It was not until years later that Pilsudski succeeded in overcoming that failure. As the most recent turn in Poland has proved, he did not even succeed, however, in projecting his attitude onto his closest associates as a heritage which would have obliged them to act in accordance with Pilsudski's outlook. Aware of the historic knowledge of the unfortunate efforts in the East, the leading class of Poland willingly accepted the English "Gift of Danae" of that guarantee and, in turn, kindled the emotions which had been suppressed with great effort.

Therefore, it is questionable if an attitude of sober evaluation of their own strength and their own foreign political situation will gain the upper hand in Poland or whether the ruling group, in order to avoid its overthrow, will go to the extent of further aggravating the situation. Therefore, the Danzig question, if solved according to German wishes, could become a problem fateful for all of Poland.

Of the two possibilities which result theoretically, only the second one is of interest here.

Poland, relying on Anglo-French assistance, takes to arms in order to prevent Danzig's return to Greater Germany or in order to annex it herself.

The development until now of the London-Moscow negotiations does not allow us to draw any definite conclusions with respect

to the final result. The fact that the western democracies admitted their own weakness gave Moscow the chance to insist upon the full acceptance of its demands. Whether or not England accepts Stalin's dictate in full—we probably may disregard France here, after the way she subordinated herself in foreign policy respects—is still uncertain, since the dictate in the end, may burden her with further obligations in the Far East in addition to her guarantee for the Baltic states, which guarantee, of course, is not even desired by those concerned. This obligation, however, would cause Japan, in turn, to join the German Military Pact after all. This, however, is a consideration which certainly will exert some restraint on the willingness to arrive at an agreement in London. It may likewise not be expected that Moscow, which today enjoys a political advantage over London, would lessen its demands. After the reverses of recent years, the mere fact that the Democrats courted bolshevism for its aid signifies a tremendous political victory for Stalin and he has every reason to utilize that victory until such time as western Europe will be completely subjected in foreign policy respects; because no dangers threaten Moscow even if the negotiations should fail, in view of England's deadlocked fighting attitude [festgefahrene Kampfstellung] toward Greater Germany. Only one single consideration speaks for the possibility that Moscow might give in a little —the certainty that after the conclusion of the treaty the democratic war drums will no longer sound their music in flat but in sharp harmonies and that they could arouse an increased war psychosis which might favor the outbreak of a European conflict, only by way of which—or only through which—Moscow intends to take care of its business. The Soviet rulers undoubtedly are aware that the internal political situation simply prohibits Moscow from actively participating to any larger degree in a European conflict. Therefore, one is justified in assuming that, even after such a treaty has been signed, Moscow favors the agreement only in the hope that thus she may contribute to the outbreak of a European war in which she herself, however, is not willing to participate to any extent. Moscow would only participate if, like a buzzard, it could pick the flesh off the bones of dead bodies.

It is also questionable whether England, in view of her unpreparedness, will in any case carry out her promises to Poland as planned, particularly if the strengthening of morale which is expected from the conclusion of the pact with Moscow should not actually occur.

Therefore, we may restrict ourselves in the following discussion merely to a German-Polish conflict.

Western White-Ruthenia and the Western Ukraine.

Poland is now a state consisting of various nationalities, as was the case with Czechoslovakia. According to Polish statistics, only little more than half of the inhabitants are Poles.

The largest and most important minority are the Ukrainians, then the White Ruthenians, the Jews, the Lithuanians, the Germans, and the Czechs. Poland received at Versailles, in pursuit of its eastern intentions, Galicia and Volhynia but in spite of the Pilsudski/Petlyura alliance they could not take the Greater Ukraine away from the Bolsheviks. As in previous centuries the Ukraine remained divided, so that the Poles had to be satisfied with the western part. The same is also true of White Russia, which extends into the northeast of Poland and which borders on the West Ukraine in the Polesie [Polesje] territory, that is, the Pripet marshes.

In view of the various ethnic differences in Poland, the above-mentioned territories could be given very essential tasks if Poland were restricted to its proper area.

Both minorities live in a closed area and consume their energies in a persistent defensive struggle against the Polonization tendencies of the central administration. They never learned anything good from Poland in the past and neither may they expect anything favorable from Poland for their development in the future. A Poland which is too strong constitutes a burden for them; a small Poland is of benefit to them if they can develop themselves in a suitable way under the protection of the power which protects them against interference of no matter what kind from Moscow. At the same time, however, they are outposts [Einsatzstellen] which would allow us to advance and secure German living space far into the East and to maintain it with *their* blood and not German blood.

For those very same reasons Moscovia is more interested in those two areas than in the rest of Poland and the so-called border states. Therefore, the possibility cannot be entirely excluded that the Soviets, in case of a German-Polish conflict, under the pretext of extending armed aid to Poland, would occupy just those territories, and stop at their borders. In the case of such a new partition of Poland, Greater Germany would, to be sure, deprive herself of the most promising chance of splitting up Moscovia, while a temporary diversion of the Soviets toward the Baltic states would promise nothing but advantages for Germany. In such a case all of Scandinavia and Finland would sooner or later be forced to segregate themselves from their Anglo-Saxon-Marxist foster-parents and to seek protection by Greater Ger-

many as well as hoping for and welcoming a "liberation" and annexation of those territories by Greater Germany.

On the other side, the areas of the White Ruthenian and western Ukrainian populations would be of unestimable importance as a reservoir and preparatory base for an aggressive destruction [ausgreifende Zertruemmerung] of Russia which even Charles XII attempted but in which he did not succeed. Because some time the moment will arrive when the Soviet paradise will begin to shake internally (perhaps it will already begin when Stalin dies) and then all those nationalistic political trends which have been suppressed by the Soviet rulers will then come to life. This will occur to a much larger degree than happened in the course of the Russian Revolution during the World War because the uprising against the Soviet rule (which is intensely hated) coincides with the watchword "Away from Moscow." In this connection the development of national languages among the various nationalities, which development was fostered reluctantly throughout the years by the Soviets, will have ill effects on the central administration. That would also be the great chance for the utilization of those two nationalities in the German interest in order to push back Moscovia. In that moment, also the Baltic States, if they were then dominated by Soviet Russia, would fall into the hands of Greater Germany.

White Russia or White Ruthenia, in the course of history, comprised territories, with Smolensk as their capital, which extended to the gates of Moscow and bordered in the northeast on the territories of Novgorod and Kalinin [Twer]. Although in the course of their historical changes, the leading class, particularly in White Russia, was Lithuanianized, Polonized and Russianized, it would merely require the systematic development of existing institutions [Ansatzstellen] in order to train a nationalistic upper crust which would be politically acceptable [politisch tragfaehige Nationalschicht], as has been proved after all, in the case of Lithuania.

The western Ukraine, including the Greater Ukraine, to which the entire so-called Don territory would have to be added in political respects, and the bordering Terek and Kuban territories near the northern part of the Caucasus, constitute agriculturally and mineralogically the richest areas of the Soviet Union. Once it was the center of the Varangian Kiev Empire after the rule of the Goths, which centuries before, had extended from the Baltic States to the Black Sea. In spite of all Polonization attempts, a nationalistic class—formerly favored by the Austrian-Russian antagonism—survived in the western Ukraine, which class continued the Ukrainian cultural tradition and which survived all

attempts to denationalize it. The strengthening of the Ukrainian national self-assertion could also be felt clearly in prewar Russia. In that respect there already exists in the western Ukraine a basis which can be developed on a national scale.

Germany so far has not begun completely unobtrusive and appropriately executed preparations which would pursue such an aim. Neither were there plans developed for the future which would be politically acceptable to the effect of utilizing [einzuspannen] for German interests the entire population of the Polish Ukraine in case of a possible conflict with Poland.

After the Carpatho-Ukraine was ceded to Hungary, the entire Ukrainian public opinion, which at first had entirely unfounded hopes for a specific German interest in that territory, became openly hostile. In a very adroit way this attitude is being encouraged by Poland, Great Britain and France. Ukrainian public opinion feels that they were somehow cheated in their vague expectations without having any real reasons for that attitude. However, a Ukrainian organization (the OUN, i.e., the Organization of Ukrainian Nationalists), which has been prepared [ausgerichtet] by the High Command of the Wehrmacht to deal with special tasks, has contributed greatly to creating such an attitude. That organization, in public statements and in its press releases, which were published in Germany, demanded national independence of the Carpatho-Ukraine, although it had been deprived of its life centers and although the possibility of an autarchic existence [Selbsterhaltungsmoeglichkeit] of that dismembered territory could only have been guaranteed by a complete economic union with the Reich at that time.

Representatives of that organization played a fateful role in the Ukraine with respect to the creation of incidents with the Czech and Polish agencies and they also exerted constant pressure upon the self-administration of the country, always referring to the German military power which was backing them up, as well as to the fact that they had received a certain authorization from Greater Germany. The Viennese radio transmissions in the Ukrainian language also followed that general tendency. All this, of course, is well known by the entire Ukrainian public and is the partial cause of their disappointment, which is directed in a particularly outspoken degree against the OUN. That organization, which can be best compared with the Croat Ustashi group, is probably still appointed by the High Command of the Wehrmacht to carry out certain intelligence tasks in the Western Ukraine in case of a conflict with Poland. It may be suited to that purpose but it is entirely unfit for leading a political operation which should seize hold of the population.

Apart from local disturbances, the Poles would not encounter any difficulties whatsoever if only the OUN were used. It certainly cannot be expected that the German operation would thereby be aided to any considerable extent. Furthermore, this group is greatly split within itself. Its organization in America, for example, published press reports which are of a particularly anti-German character and the leaders here, who are supported by the High Command of the Wehrmacht, are not in a position to enforce *their* outlook. We have called the attention of the High Command of the Wehrmacht to this matter but the latter persists, for inexplicable reasons, in maintaining that this group has political value. It is even planned to issue a Ukrainian newspaper in the Reich under the auspices of that group. As such, the idea of establishing a Ukrainian newspaper in Berlin is very commendable, if such publication is part of a large-scale political plan with the purpose of gaining real influence upon the entire population of that area.

The political preparatory work, with respect to the utilization of the Ukrainian population for the tasks with which the Germans intend to entrust them in the very near future, should be extended to a population sector as large and as wide as possible. In particular, emphasis should be placed upon the cultural aspects by corresponding institutions and by means of radio transmissions and press publications. There were, for example, several Ukrainian educational institutions in Prague which are now facing difficulties. They probably will be forced to cease their activity altogether since the Czechoslovak Government curtailed their funds considerably since 1930. The Italians also have an institute in Rome where they train Uniate priests, which constitutes the religion of a large part of the Western Ukrainians. They succeeded in exerting a very strong influence upon the population —in the nationalistic sense—by way of the clergy. The *German Reich* lacks an office which deals centrally with those questions, which is acquainted with the historical political problems as well as with the important nationalities and groups and which knows the languages of those nationalities.

All questions mentioned here can only be decided by the Fuehrer. He alone can decide upon the practicability of such preparatory work and he alone can integrate it possibly with the entire political trend desired by him.

Berlin, 14 June 1939

PARTIAL TRANSLATION OF DOCUMENT 3787-PS[1]
PROSECUTION EXHIBIT 553

REPORT OF THE SECOND MEETING OF THE REICH DEFENSE COUNCIL, 23 JUNE 1939

Date: 23 June 1939 Commencement: 1110
Termination: 1355

Place: Large Conference Room of the Reich Air Ministry

Chairman: Minister President Field Marshal Goering

Persons present:[2]

Supreme Reich Authorities

The Fuehrer's Deputy	SS Brigadefuehrer Knoblauch
Chief of the Reich Chancellery	Reich Minister Dr. Lammers
Minister President Field Marshal Goering	State Secretary Koerner State Secretary Neumann
Plenipotentiary for the Four Year Plan	Min. Councillor Bergbohm
Prussian State Ministry	Colonel v. Schell Lt. Colonel Schricker
Plenipotentiary General for Reich Administration	Reich Minister Dr. Frick Reich Leader SS Himmler State Secretary Pfundtner State Secretary Dr. Stuckart General of the Uniformed Police Daluege Ministerialdirigent Dr. Danckwerts
Plenipotentiary General for the Economy	Reich Minister Funk State Secretary Dr. Posse State Secretary Dr. Syrup State Secretary Dr. Landfried State Secretary Backe Ministerial Councillor Dr. Burandt

[1] This document was received in evidence in the IMT trial as 3787-PS, exhibit USA-782. Complete German text can be found in Trial of the Major War Criminals, *op. cit.*, volume XXXIII, pages 144-160. A report of the defendant Woermann on the first meeting of the Reich Defense Council on 18 November 1938, (3575-PS, Pros. Ex. 106), is reproduced earlier in section VI-D (Czechoslovakia), this volume.

[2] The distribution list of this document shows that 100 copies of this document were originally made, 84 of them being immediately distributed to persons in, or agencies of, the government, the Nazi Party and the armed forces. The copy introduced in evidence was the 84th copy, one of five copies going to the Economic Staff of the High Command of the Armed Forces.

Reich Ministry of Finance	Reich Minister Count Schwerin v. Krosigk
Reich Ministry of Transport	Reich Minister Dr. Dorpmueller State Secretary Kleinmann
Inspector General for German Highways	Professor Dr. Ing. Todt

Armed Forces

High Command of the Armed Forces	General Keitel
WFA[1] (Secretariat Reich Defense Council)	Colonel, GSC, Warlimont Colonel, GSC, Gause Lt. Colonel v. Mauch
Economic Staff	Brig. General Thomas
High Command of the Army Army General Staff	Lt. General Halder Colonel, GSC, Gercke
General Army Office	Colonel, GSC, Burdach
High Command of the Navy	Admiral of the Fleet Dr. h. c. Raeder
Reich Minister for Air and CinC Air Force	General Milch Lt. General Stumpff Brig. General Bodenschatz

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[1] Wehrmachtfuehrungsamt, Armed Forces Operations Office.

[2] Page numbers listed appear in original document.

A. Introduction

Ministerpraesident *Field Marshal Goering* emphasized, in an introduction that, according to the Fuehrer's wishes, the *Reich Defense Council* was the *determining body* in the Reich for all questions of preparation for war. It is to discuss only the most important questions of Reich Defense. They will be worked out by the Reich Defense Committee.

Meetings of the Reich Defense Council are to be convened only for these decisions which are unavoidable. It is urged that the chiefs themselves be present.

B. Distribution of Labor

I. The *chairman* announced the following directives to govern the *distribution* and employment of the *population* in wartime.

1. The *total strength of the armed forces* is determined by the Fuehrer. It includes only half the number of those fit and liable for military service. Nevertheless, their disposition will involve difficulties for the economy, the administration and the whole civilian sphere.

2. *A schedule of manpower* [Menschenbilanz] is made as the basis concerning the question how the remaining number, after those required for the armed forces have been withdrawn, can be most suitably employed.

3. Of equal importance to the requirements of the armed forces are those of the *armament industry.* It, above all, must be organized in peacetime, materially and as regards personnel, in such a way that its *production* does not decrease but *increases* immediately with the outbreak of war.

4. The *direction of labor* to the vital war armament industry and to other civilian requirements is the main task of the *Plenipotentiary General for the Economy.*

a. War armament covers not only the works producing war materials but also those producing synthetic rubber [Buna], armament production tools [Waffenbetriebsmittel], hydrogenation works [Hydrierungswerke], coal mining, etc.

b. (1) As a rule, no essential and irreplaceable workers may be taken away from "war decisive" factories, on whose production depends the course of the war, unless, they can be replaced.

Coal mining is the most urgent work. Every worker who is essential to coal mining is "indispensable."

Note: Coal mining has even now become the key point of the whole of the armament industry, of communications and of export. If the necessary labor is not made available for it now, the most important part of the export trade, the export of coal, will cease. The purchase of coal in Poland will stop. The correct distribution of labor is determinative. In order to be able to man these key points with the right people severe demands will shortly be

submitted to the Fuehrer which, even in the current mobilization year, will under certain circumstances lead to an exceptional direction of the war: for example, to the immobilization of motor vehicles and to the closing down of unessential factories owing to lack of coal.

In addition, there is the supplying of Italy and other countries such as Scandinavia with coal (to maintain the German supplies of iron).

(2) The remaining "war essential" industries can and must suffer losses, as must the "vital" industries which are of *importance to the life of the people.*—cf. No. 23—.

Note by the Reich Defense Committee. The industries will be combined under the term "war economy industries"—cf. the "General principles for cooperation between the OKW and the Plenipotentiary General for the Economy in the preparation of war economy industries for war" dated 3 May 1939, which was approved by the President of the Reich Defense Council, and the "*Principles* for the distribution and direction of the population in wartime," dated 10 June 1939.

c. (1) An important and valuable *specialist worker* will be of more use in his place of work than at the fighting front. The greater number of specialist workers must be drawn from those who are no longer liable for military service, that is from the *older age groups.*

(2) A second category of workers liable for military service will be called up during the war after their replacements have been trained. A decisive role is played by the extensive *preliminary training* and *retraining* of workers.

(3) Preparations must be made for replacing the mass of other workers liable for military service, even by drawing on an increased number of women. There are also disabled servicemen.

(4) *Compulsory work for women* in wartime is of decisive importance. It is important to proceed to a great extent with the training of women in war-essential work, as replacements and to augment the number of male workers.

d. In order to avoid confusion when mobilization takes place, persons *working in war-essential branches*—for example, administration, communications, police, food—will not at first be removed. It is essential to establish the degrees of urgency and the standard of value.

e. By way of the auxiliary civilian service [zivilen Hilfsdienst] —provided by every European people—a lead in the decisive initial weeks of a war must be gained and maintained; efforts must, in this way, be made to ensure by definite and pellucid organization [sichere klare Organisierung], that every German in wartime not only possesses his mobilization orders but has also been thoroughly *prepared* for his wartime activity. The plants must be adapted to receive the replacements and additional workers.

II. The *President of the Reich Defense Committee,* General Keitel, Chief of the OKW, made a report explaining the "Principles for the distribution and employment of the population in wartime," issued by the Reich Defense Council on 10 June 1939.

III. The *Chairman* allotted the following tasks:

5. In 4 weeks time, State Secretary Dr. Syrup will be requested to make a conclusive report to the chairman of the Reich Defense Council on the problem of personnel in connection with the *employment of women.*

6. The Plenipotentiary General for the Economy is given the task of settling what work is to be given to *prisoners* of war, to those in prison, concentration camp, and penitentiary. According to a statement by the Reich Leader SS, greater use will be made of the concentration camps in wartime.* The 20,000 inmates will be employed mainly in workshops inside the concentration camps.

IV. State Secretary Dr. Syrup, of the Reich Ministry of Labor, made a report on the *employment of labor* in the event of mobilization and the schedule of manpower for the *war.*

7. The figures for the *schedule of manpower* drawn up experimentally, could be only of a preparatory character and merely give certain guiding principles. The basis of a population of 79 million was taken. Of these, 56.5 million are between the ages of 14 and 65. It is also possible to draw upon men over the age of 65 and upon minors of between 13 and 14. The incapacitated and the infirm must be deducted from the 56.5 million. Most prisoners are already employed in industry. The greatest deduction is that of 11 million mothers with children under 14. After these deductions have been made, there remains an employable population of 43.5 million—26.2 million men, after deducting 7 million members of the armed forces, 19.2; 17.3 million women, after deducting 250,000 nurses, etc., 17.1—for the whole of Germany's economic and civil life. The Chairman does not consider women over the age of 60 as employable.

8. The number of workers and of employees at present *employed* (2/3 of those gainfully employed) distributed over 20 large branches of industry, amounts roughly to the following: 24 million men (excluding 2 million service men), 14 million women.

9. No information was then available regarding the number which the *armed forces* will take from the individual branches of industry. Therefore an estimate was made of the numbers

* For further information concerning the use during the war of concentration camp inmates, principally from the occupied countries, see section XI, volume XIII, this series.

remaining in the individual branches of industry after 5 million servicemen had been called up.

* * * * * * *

15. The *Chairman* announced that, in the war, hundreds of thousands of workers from nonwar economy concerns in the *Protectorate* are to be employed under supervision in Germany, particularly in agriculture, and housed together in hutments. General Field Marshal Goering will obtain a decision from the Fuehrer on this matter.

* * * * * * *

29. Instead of further discussions before the whole assembly, the forming of a small *commission* was recommended, which will make definite proposals. Extensive preparatory work has been undertaken. *Note by the Reich Defense Committee:* The commission came into operation under letter OKW WFA No. 1465/39 Top Secret L IVa dated 27 June 1939.

President: State Secretary Dr. Stuckart, Plenipotentiary for Administration

Members: Fuehrer's Deputy
Plenipotentiary for the Four Year Plan
Plenipotentiary General for the Economy [GBW]
Reich Minister for Finance
Reich Minister of the Interior
OKW

30. The *Chairman* requested that the commission's proposals be submitted. It is an important section of the preparation for war.

VII. *The speech by the GBW* provided for in the agenda regarding the war importance of the officials of the GBW, the factories and organizations, the directing of new occupational recruits (shortage of labor, migration from the country, Women's Labor Service), training of youth, stepping-up of production, procedure for obtaining maximum efficiency, supply position, was not given.

C. Increasing the Efficiency of the Communication Service

Report by the Chief of the Transport Service in wartime, Colonel Gercke, Chief of Department 5 (Transport Department) of the Army General Staff.

31. The result of the examination of the work necessary for strategic concentration a year and a half ago showed that the transport service could not meet all the *demands* made on it by the *armed forces.* The Minister of Transport agreed. The 1938 section of the Four Year Program will presumably be completed in August 1939.

32. Shortly after this program was drawn up, *demands were made on the Wehrmacht* which changed completely the usual employment of the Wehrmacht at the beginning of a war. Troops had to be brought to the frontier, in the shortest possible time, in numbers which had until then been completely unforeseen. The Wehrmacht was able to fulfill these demands by means of organizational measures but transport could not.

33. *In the transportation sphere Germany is at the moment not ready for war.*

a. In the case of the three operations in 1938–39, there was no question of an actual strategic concentration. The troops were transported a long time beforehand near to the area of strategic concentration by means of *camouflaged measures.*

b. This stopgap is of *no use whatsoever,* when the time limit cannot be laid down and known a long time beforehand, but an *unexpected* and *almost immediate* military decision is required instead. According to the present situation transport is not in a position, despite all preparations, to bring up the troops.

* * * * * * *

38. In order that troops may be moved in *lorries* speedily and without hindrance, the highways which secure connections from east to west and from north to south must be identified in the same way as are the transport routes of the railways; they, together with the Reichsautobahnen, must be developed to a greater degree. Crossroads and level crossings are to be abolished, especially at the exit areas [Auslaufgebieten]. This matter will be taken up further by the Reich Defense Committee.

39. The *Chairman* remarked that, even in peacetime, certain vital *supply stores* of industry and the armed forces are to be transferred to the war industrial center to economize in transport later on.

As far as inland waterways are concerned, the Four Year Plan will provide for the further development of the shipping pool so that it can be used principally for supply activities. The Mittellandkanal* is of special importance. Numerous other canals could also be used. AA guns could be employed, on inland ships to good effect. Unfortunately, many bridges are too low; this must be remedied. At any rate, it is urged that the waterways be included in the forefront of the subjects to be considered by the departments.

40. *a.* The Reich Minister for Transport, Dr. Dorpmueller, explained that the reason for the shortage of rolling stock was that the railway network had been considerably increased. Further-

* Canal system connecting the Dortmund-Ems-Canal at Bergeshoevede with the Elbe River at Magdeburg.

more, the additional Reich territories required a new communications system and new railway lines. The materials there needed to be considerably supplemented. The delay was caused by the fact that the Reich Ministry of Transport received neither steel, nor material, nor personnel. For work on the railways and the waterways was *not* described as *essential to the State.*

b. The Chairman gave the assurance that, under certain circumstances, vital *sections* of the work of the Reich Ministry of Transport would be declared essential to the State.

41. To sum up, the Chairman affirmed that all essential points had been cleared up at this meeting. The directive of the Reich Defense Council for preparing *means of transportation* for war was issued on 23 June 1939: RVR OKW/WFA No. 1371/39 Secret L IV dated 24 June 1939.

D. The Last Item on the Agenda

The results of the suspension of the *secrecy protection* [Geheimschutz] *of the Reich Defense Law* and measures for facilitating commercial intercourse are dealt with by the letter from the Reich Defense Committee OKW WFA/L No. 1114/39 Top Secret IVa dated 26 June 1939.

933764O—51——67

TRANSLATION OF DOCUMENT NG-2026
PRSECUTION EXHIBIT 156

TELEGRAM FROM DEFENDANT WOERMANN TO NUMEROUS GERMAN DIPLOMATIC MISSIONS, 8 JULY 1939, CONCERNING OFFICIAL LANGUAGE TO BE USED IN DISCUSSING THE POLISH QUESTION

Copy

Berlin, 8 July 1939 to Pol. V 726 Top Secret Ang. III

Diplogerma Therapia No. 148
Brussels No. 98
San Sebastian No. 459
Athens No. 99
Belgrade No. 177
Berne No. 78
Budapest No. 190
Bucharest No. 253
German Legation Dublin No. 40
German Embassy The Hague No. 75
Diplogerma Helsinki No. 115
Copenhagen No. 108
Kovno No. 69
Lisbon No. 143
German Embassy Oslo No. 82
Diplogerma Tallinn No. 83
Riga No. 111
Sofia No. 132
Stockholm No. 111
Consugerma Danzig No. 21
Geneva No. 64
Pretoria No. 65
Sydney No. 45
Ottawa No. 29
Calcutta No. 29

Telegram in figures (Secret code)

For the Chief of Mission personally.

When necessary I beg you to use in conversations the following from a directive concerning official language as given by the Reich Foreign Minister in connection with the problem of Poland.

We will not give up hope that reason will be regained and will predominate in Poland, because we did not look for the conflict but for the solution of the problem. We could hardly imagine that any sensible Pole would want to expose the fate of Poland to a lightning and devastating blow of the German fist which has then to be expected. The one and only acute danger which we could see for the disturbance of the European peace, would exist in a hara-kiri policy, initiated through such Polish excesses, which Germany as a great and patient nation could no longer ignore as it has done up till now. It would be very much wanted if this contemplation would be coming soon, for it would be rather hazardous to draw differences like these German-Polish ones out too long and it is hardly to be answered for under the viewpoint of a general European interest.

WOERMANN

TRANSLATION OF DOCUMENT NG–2029
PROSECUTION EXHIBIT 160

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO VON NOSTITZ AND DEFENDANT WOERMANN, 14 JULY 1939, CONCERNING GENERAL KEITEL'S INQUIRY AS TO THE ADVISABILITY OF SHOWING GERMAN LIGHT AND HEAVY GUNS PUBLICLY IN DANZIG

Berlin, 14 July 1939

St. S. [State Secretary] No. 563

General Keitel instructed Lieutenant Colonel von Lossberg to ask me if it were politically advisable to display publicly the 12 light and 4 heavy *guns* which are in *Danzig* and to have exercises carried out with them, or if it would be better to conceal the presence of these guns.

[Handwritten marginal note] Reich Minister agrees.

Please inform the Armed Forces High Command that the gun exercises, which are doubtlessly necessary, are to be carried out at first indoors, where the guns are being kept at present. Tell him also that it will be advisable to wait a while longer before displaying the guns in public, driving them through the city and training with them in the open field; and tell him that the Poles will certainly commit a new blunder, and they can then be answered by a public appearance of the batteries.

[Marginal note] To be filed. K. [von Kessel]

Herewith through the Under State Secretary Political Division [to] Herr von Nostitz with the request that the above be forwarded verbatim to the armed forces.

Signed: WEIZSAECKER

To: *The Reich Foreign Minister* Senior Legation Counsellor Hewel

[Illegible initials] 19 July (via Salzburg)

TRANSLATION OF DOCUMENT NG-4483
PROSECUTION EXHIBIT 896

INSTRUCTIONS TO THE PRESS, 11 AUGUST 1939, CONCERNING THE HANDLING OF "POLISH EXCESSES" IN GERMAN NEWSPAPERS

Directive No. 850 (Important)

Instructions to the Press Conference of 11 August 1939

[Bestellungen a. der Presskonferenz vom 11 August 1939]

From now on, all Polish excesses against ethnic Germans and similar incidents which reveal the hatred of the Poles of everything German, should be handled as communiques on the first page and commented on. Of course the interpretation should not yet be made in the most severe tone, in order that there will still be a possibility of making it sharper. These instructions, pending further orders, will apply to the whole of next week.

TRANSLATION OF DOCUMENT WEIZSAECKER 360
WEIZSAECKER DEFENSE EXHIBIT 106

OFFICIAL MEMORANDUM OF THE DISCUSSION BETWEEN HITLER, VON RIBBENTROP AND COUNT CIANO, 13 AUGUST 1939, CONCERNING HITLER'S DECISION TO CLARIFY THE POLISH QUESTION NO LATER THAN THE END OF AUGUST 1939 BECAUSE OF THE DIFFICULTIES OF MILITARY OPERATIONS AFTER SEPTEMBER[2]

Office of the Reich Foreign Minister

Memorandum concerning the discussion between the Fuehrer and Count Ciano in the presence of the Reich Foreign Minister on the Obersalzberg on 13 August 1939

The Fuehrer opened the discussion by stating that since the last conference he had carefully studied the whole situation. The Reich Foreign Minister had informed him in the meantime that Count Ciano had agreed, in view of existing circumstances, not to conclude the discussion with a communique. He (the Fuehrer) was also of the opinion that that was the best course. This would leave the door open, nobody would be tied down and there would be no obstacles. He said that in principle his reflections had led him to the same conclusion which he had already announced at

[1] This is a directive taken from the so-called "Brammer material." See footnote on page 858.

[2] This document was introduced in the trial before the International Military Tribunal as GB (Great Britain) Exhibit 48. A certificate attached to the photostatic copy of the document originally introduced in evidence states that the original was found in the files of the German Foreign Office.

the previous day's discussion, namely that there was a danger in waiting until the autumn was too far advanced, so that Poland would be free to pursue her relatively limited aims. Danzig could be made tractable by means of gradual blackmail and in this connection the conditions imposed by the treaty were extremely favorable to Poland. Danzig could be gradually cut off and exposed to economic ruin or even to starvation. From the second half of September and particularly from the beginning of October onwards Danzig could be occupied by Poland quite simply. Then Germany would reconquer the Corridor and Danzig but at that season any kind of major military operations were impossible. Danzig would be reduced to a heap of ruins. Germany's heavy motorized forces, which would be necessary to penetrate deeply into Poland, could no longer be used. In a severe winter it would, of course, be possible to carry out certain military operations but fog and mud conditions on the military airfields as well as at the ordinary airports would render impossible any activity on the part of the Luftwaffe. If one were to use German airports, then flying distances and gasoline consumption would be increased and the bombload which could be carried would be reduced. It was thus, he said, of primary importance first that Poland should make clear her intentions and second that Germany should not tolerate any more provocations. If one were now to put up with provocations, one would have to put up with conditions and was therefore playing for time. He (the Fuehrer) had therefore come to two conclusions:

1. If any fresh provocations occurred, he would attack as quickly as possible.

2. If Poland did not state her political attitude clearly and precisely, she must be forced to an attitude.

He said that it must not be forgotten that the war of nerves which the Poles had started by means of continual incidents and provocations, had now been going on for 3 months. Any sign of yielding would, in view of the Slav mentality, result in an excess of Polish insolence. To yield would therefore not strengthen our general position but would be interpreted by other countries as a sign of weakness. If the western democracies had already made the decision to advance against the Axis, they would definitely not wait 3 or 4 years before they proceeded with their plan and attack only when the Axis powers had completed their necessary preparations, but would start the war sooner. However, if they had not yet made a definite decision—and this he (the Fuehrer) believed to be the case, in view of the present armament stocks held by the western states—the best plan would be to dissuade them from advancing and to act quickly against Poland.

He said that furthermore every successful individual operation carried out by one Axis partner meant not only a strategical but above all psychological strengthening of the partner as well as of the Axis as a whole. Italy had carried out a whole series of successful individual operations in Abyssinia, Spain, and Albania, always against the will of the democratic Entente. Each of these individual operations had not only strengthened Italian interests locally but had strengthened her general position to an extraordinary degree. The same was true of Germany's operations in Austria, Czechoslovakia, etc. Here, too, not only had her local interests been strengthened, but her position had been generally consolidated. The Axis as such had benefited considerably thereby. If one were once to imagine that the individual operations in question had not been carried out and if one were to realize what the position of Italy and of Germany would then have been, it would become even clearer that, as pointed out above, the individual operations were of the greatest material and psychological benefit to the over-all position of both countries.

The strengthening of the Axis which had thus resulted was of the utmost importance in the unavoidable conflict with the Western Powers. As matters stood at the moment it was simply impossible for Italy or Germany to continue to exist in the world because of lack of space, not because there was no more space but because the existing space was completely occupied by the present owners. Like misers they sat on their heaps of gold and enjoyed the intoxication of running their hands through it without being able to put their treasures to a useful purpose. The western democracies were guided by the desire to rule the world and did not regard Germany and Italy as their equals. The psychological element in this disdain was perhaps the worst part of it. It could only be washed away by a life-and-death struggle, which both Axis partners could face all the better because their interests did not conflict on any issue. Undisputedly the Mediterranean was Italy's most natural domain for historical and geographical reasons; and certainly Italy deserved a position of superiority there. On the *"Conte Cavour"* the Duce had expertly analyzed the situation by stating that on the basis of her geographical position alone, Italy was already the predominant power in the Mediterranean. At the same time the Fuehrer declared that Germany would again follow the old Germanic trail [alten Germanenweg] to the East which seemed indicated even for economic reasons. The fact that Italy was, for historical and geographical reasons, the predominant power of the Mediterranean had incidentally been clearly recognized by Bismarck, the founder of the Second Reich, who had expressed this idea in the well-

known letter to Mazzini. Therefore the German and Italian spheres of interest were entirely separate, and it could never come to a conflict of interests.

At this point the Reich Foreign Minister said that if the two problems mentioned in the Fuehrer's discussion of the previous day were solved, Italy and Germany would be free to carry on the fight against the West.

The Fuehrer stated that Poland would have to be beaten in such a manner as to be unable to fight for at least 10 years. Then would be the time for a conflict with the West.

Count Ciano thanked the Fuehrer for his remarkably clear discussion of the situation. For his part he had nothing to add and would report to the Duce in fullest detail regarding the Fuehrer's statements. However, he would like to ask for clarification on one point, in order to be able to report to the Duce all the necessary ingredients for an estimate of the situation. Probably the Duce would not have to make a decision anyway, since the Fuehrer had expressed the belief that the conflict with Poland could be localized. On the basis of his long experience Count Ciano felt he could say that the Fuehrer's estimate of the situation had always been correct until now. But even though Mussolini would not have to make a decision, he would like to take certain precautionary measures, and for this reason Count Ciano wanted to ask the following question:

The Fuehrer had given two reasons for which he would enter into conflict with Poland. One, if Poland were to become guilty of a serious provocation and two, if Poland were not to clarify her political situation. The provocations could take place at any time and would produce a German reaction at any moment. The second reason however, presupposed certain time limits. For this reason he would like to know until what date Poland would have to clarify her political position according to Germany's ideas. He indicated that in this, too, he was aware of the fact that the situation was somewhat dependent on the time of year.

The Fuehrer replied that the Polish political situation would have to be clarified not later than the end of August. This was necessary because, although the major part of the military operations against Poland could be carried out in a matter of 2 weeks, the final liquidation would require something like 2 to 4 weeks, that is, it would not be completed until the end of September or the beginning of October. Consequently the deadline had to be the end of August.

In conclusion the Fuehrer again assured Count Ciano that ever since his youth he had advocated German-Italian cooperation and that nothing to the contrary could be found in any of his writings.

He had from the beginning held that Germany and Italy had been destined by nature to work together since there existed no conflicting interests. He himself was delighted to live in a world which in addition to himself contained one other statesman who stood out in history as a great and unprecedented leader. That he could be this man's friend was the greatest personal happiness for him. When the hour of common battle struck, he would always be found on the Duce's side, for better or for worse.
Salzburg, 13 August 1939

Signed: SCHMIDT[1]

TRANSLATION OF DOCUMENT NG–2031
PROSECUTION EXHIBIT 169

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, DEFENDANT WOERMANN, AND OTHERS, 15 AUGUST 1939, CONCERNING VON WEIZSAECKER'S DISCUSSION WITH FRENCH AMBASSADOR COULONDRE ON THE POLISH QUESTION AND THE BRITISH-FRENCH GUARANTEE TO POLAND

State Secretary [St. S.] No. 624 Berlin, 15 August 1939

The French Ambassador called on me today after returning from his leave. We discussed first the case of Abetz.[2] Then the Ambassador passed on to general politics expressing himself somewhat as follows and put this forward calmly and definitely. France had taken up her position. Her relations with Poland and England were known. A conflict between Germany and Poland would automatically drag in France. That was a fact and not France's wish. Rather did France wish for nothing more urgently than a German-Polish settlement, especially touching Danzig. She hoped that a general German-Polish easing would also follow a settlement of this special question. This, in a few words, was the impression he had obtained from his last talks with Daladier and Bonnet. His recent impression in Berlin, however was one of a certain aggravation of the situation. It especially engaged his attention that in the latest German utterances constant reference was made to the *point of honor*—that must obviously mean a serious increase in the gravity of the situation.

[1] Paul Otto Schmidt was official interpreter of the Reich Foreign Minister and personal interpreter to Hitler. He testified in a number of the Nuernberg trials, and his testimony is quoted in the judgment of the International Military Tribunal. See Trial of the Major War Criminals, *op. cit.* volume I, pages 225–226.

[2] Reference is to Otto Abetz, von Ribbentrop's adviser on French questions, who, in the summer of 1939, was requested by the French Government to leave France; in 1940 he became German Ambassador in Paris. Abetz appeared as a witness in this case (*tr. pp. 10676–10690, 10772–10827*).

I thereupon corroborated Coulondre in his opinion that the position was different from what it had been before he went on leave in July. Then I went rather far back and quoted all sorts of arguments in order to characterize Poland's unbridled suicidal policy [ungezuegelte selbstmoerderische Politik]. I spoke to Coulondre of Poland's ultimatum to Danzig of a week ago last Saturday, of the aggressiveness in the exchange of opinion between Berlin and Warsaw of the week before last, of the provocative utterances of the controlled Polish press, of the continued suppressive, coercive, expulsive, and similar measures taken by the lower-level Polish Government departments (I showed Coulondre for that purpose a list that had recently reached me concerning this) and declared that all this was the actual result of the promises made by France and England to Poland. Thus then had the seed sprouted, which the Western Powers had sown in Poland.

Coulondre then wanted to make a little excursion into the past and to represent the English-French pledge to Poland as the inevitable result of the German establishment of the Protectorate in Czechoslovakia. Moreover observers assert that, according to the French report from Warsaw, there is no bravado in evidence there; on the contrary the Polish Government is keeping a cool head.

I contested this very vehemently. I said that the Polish Government moreover was not ruling at all. Apparently it was not known in Paris what the "Polish mess" [Polnische Wirtschaft] was. The government was completely out of its mind, otherwise ultimatums and threats, such as those in Danzig recently could not be uttered by Polish diplomats. Such excesses only proved Polish confidence in the two big brothers in the West, who would help. We could not, and would not, tolerate the further continuance of such a Polish administration. Poland was bringing its fate upon itself as it was running amuck.

I then went on to say that, like every stupidity, the Polish one also had a certain merit—

1. Poland's friends would see from it what they themselves had brought about, and

2. Poland would therewith free her friends from their obligation to give her support.

For one could not imagine that France or England would wish to stake their existence in favor of their friend who had run wild. I could not understand therefore how it was that Coulondre could have represented French help to Poland as self-evident and automatic at the beginning of our conversation.

Coulondre then spoke for a moment of how the French-Polish treaty of alliance had been strengthened by this year's guarantee, but the legal tie to Poland was not not decisive. France, he said, needed the balance of power in Europe for her safety. If this were to be disturbed in favor of Germany, that is if Poland were now to be overrun by us, it would soon be France's turn or else she would have to sink to the level of Belgium or Holland—France would thereby become practically a vassal of Germany and this she was just not to become. I made a strong suggestion to the Ambassador that he should convince himself of the actual behavior of Poland and allow himself to be cured of his total mistake concerning the conduct of his friends, for then France too would come to the right conclusions.

When Coulondre asked me what these conclusions were I told him two things—Poland would have to comply with Germany's justifiable claims and would have to change her general attitude towards Germany completely.

Finally the Ambassador said that his government would not agree to pressure being exercised on Warsaw as it had been exercised the previous year on Prague. The positions then and now were different.

I replied dryly to Coulondre that I had no advice to give him or his government. The latter could look at the facts for themselves and let these speak.

In conclusion the Ambassador assured me of his willingness to cooperate in any way in order to preserve the peace. A European war would end with the defeat of all including present day Russia. The victor would be, not Stalin, but Trotsky.

Signed: WEIZSAECKER

To the—
Reich Minister for Foreign Affairs
(at once by teletype Obersalzberg)
Under State Secretary Political Division
Dirigent Political Division
Senior Legation Counsellor Hewel
Dir. Legal Division
Dir. Economics Division
Press Division

TRANSLATION OF DOCUMENT NG–2008
PROSECUTION EXHIBIT 170

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, THE DEFENDANT WOERMANN, AND OTHERS, 15 AUGUST 1939, CONCERNING HIS DISCUSSION WITH BRITISH AMBASSADOR HENDERSON ON THE POLISH QUESTION, THE BRITISH GUARANTEE TO POLAND, AND RELATED MATTERS

Berlin, 15 August 1939

St. S. [State Secretary] No. 628

The British Ambassador today appeared for a discussion with me, after having been absent for quite some time. He asked me rather abruptly about the outcome of Ciano's visit in Salzburg.

In replying I did not enter into a discussion of Ciano and the conversations held with him. However, I depicted the aggravated situation between Berlin and Warsaw, thereby following about the same order of thoughts which I had outlined to the French Ambassador this morning.* In criticizing the Polish policy, I may have expressed myself in slightly stronger terms toward Henderson than I did toward Coulondre.

To the matter of the customs inspections Henderson linked the allegation that weapons were being smuggled by Germany and that Danzig was being militarized on a vast scale, thus affecting Polish rights and interests, without Poland having remonstrated. I vigorously denied that the military measures in Danzig were unjustified. Danzig was doing nothing else but protecting itself against her protector. And that, of course, should be permissible. For the rest I pointed out once more, how the British policy bestowed a fool's liberty [Narrenfreiheit] upon the Polish Government, which was now being used by Poland to an unlimited advantage. England must realize now where her so-called "policy of encirclement" has led to and should hardly be inclined or obligated to be led into disaster by her Polish friends who have gone mad.

During the discussion with Henderson this afternoon, the fundamental difference in opinion with respect to Poland's attitude became obvious once more. Henderson, speaking for his government, stated that Poland was reasonable and orderly and he denied that Poland was in a position to commit an act of aggression against Germany. In all other instances, however, which would result in a German-Polish clash, the British Government feels obligated to render military assistance and is definitely resolved to fulfill this obligation.

* See the document reproduced immediately above for von Weizsaecker's memorandum on his discussion with the French Ambassador.

Moreover, Poland would not take any decisive steps without being assured of an agreement by London.

I then asked the Ambassador whether London had sanctioned the threatening note directed to Danzig, or last week's Polish statement which was directed to us, or all these provocative speeches and articles and the continuous oppression of the German minority. Our patience had come to an end. The policy of a country such as Poland consists only of thousands of provocations. Did England count on being able to check each of Poland's indiscretions? For England to believe that Poland was her vassal, as long as Warsaw feels itself protected by London, constituted nothing but pure theory on her part. The situation is exactly reversed.

I then was compelled to deny the Ambassador's allegation, that stricter instructions [verschaerfende Instruktionen] had been forwarded to Danzig by our Consul General in Danzig. I branded this allegation a complete lie.

The Ambassador then raised the question whether it was not possible to postpone the Danzig-Poland problem until a time when it could be solved in a calmer atmosphere. He would then be confident of a better success for us, too. Henderson thought that I may not be in a position to answer this question. However, I replied by saying that his question was a purely theoretical one since Poland would utilize a postponement of the problem for no other purpose than to increase the harm it had already done, so that it was entirely out of the question to speak of an improvement of the atmosphere.

Henderson then asked whether we could not take the initiative in trying to enter upon German-Polish negotiations. With regard to this, I reminded Henderson that [Polish Foreign Minister] Beck, in his latest speech in parliament, had assumed the attitude of a Pasha seating himself on the throne and declared that, if Germany would conform to Polish principles, he would be willing to gracefully accept appropriate offers. Apart from this, the Polish Government had stated only last week that any German initiative at the expense of Polish claims would be considered by it as an act of aggression. I could thus see no place for a German initiative.

Henderson then hinted at the possibility of extensive German-English discussions, at a later date, concerning important questions, such as colonies, raw materials, etc. At the same time he mentioned, however, that the situation was much more complicated and serious than it had been last year and that Chamberlain could not very well come flying with his umbrella again.

For my part I was unable to offer any other advice, except that Poland promptly come to her senses with regard to the acute problem of Danzig as well as in her entire attitude toward us.

Henderson left with an appreciation of the seriousness and acuteness of the situation.

Signed: WEIZSAECKER

To the Foreign Minister (to be forwarded by teletype)
To the Under State Secretary Political Division [the defendant Woermann]
To Dirigent Political Division
To the Under State Secretary Legal Division
To Dirigent Economics Division
To Senior Legation Counsellor Hewel
To Senior Legation Counsellor Schmidt (Press)

WEIZSAECKER DOCUMENT 326
WEIZSAECKER DEFENSE EXHIBIT 110

MEMORANDUM OF BRITISH AMBASSADOR HENDERSON TO THE BRITISH FOREIGN SECRETARY, 16 AUGUST 1939, CONCERNING THE DISCUSSION OF 15 AUGUST 1939 BETWEEN HENDERSON AND DEFENDANT VON WEIZSAECKER ON THE POLISH QUESTION*

No. 48

Sir N. Henderson to Viscount Halifax

(Telegraphic) Berlin, 16 August 1939

State Secretary, whom I visited yesterday evening, said at once that the situation had very gravely deteriorated since 4 August. When I last saw him he had regarded the position as less dangerous than last year; now he considered it no less dangerous and most urgent. Deterioration was due firstly to Polish ultimatum to Danzig Senate of 4 August and second to last sentence—which he quoted—of Polish reply to German Government of 10 August but also in general to the unmistakably set policy of persecution and extermination of the German minority in Poland.

I told Baron von Weizsaecker that there was quite another side to the case. Polish note of 4 August had been necessitated by the succession of measures and particularly military ones, undertaken in Danzig with view to undermining the Polish position

* This document was taken from the so-called "British Blue Book" on Poland, entitled "Documents concerning German-Polish Relations and the Outbreak of Hostilities between Great Britain and Germany on 3 September 1939," published by His Majesty's Stationery Office, 1939. For von Weizsaecker's memorandum on the same discussion, see the preceding document.

there; Polish reply of 10 August had been provoked by German verbal note of 9 August and moreover only described as aggression "acts to the detriment of Polish rights and interests"; and Polish Ambassador had only the day before complained to me of the number of cases of persecution of Polish minority in Germany.

State Secretary replied with some heat that though isolated cases of persecution of Poles had occurred, there was absolutely no comparison between them and what was being done in Poland. Hitherto, he said, not too much stress had been laid in the German papers on what was happening in this respect but there was a limit to everything and that limit had now been reached. As he put it the bottle was full to the top. (In other words Herr Hitler's patience was now exhausted.)

He admitted the militarization of Danzig, but said that its object had been entirely defensive in order to protect the town against what should have been its protector.

As regards the Polish note of 10 August he said that if any German intervention to the detriment of Polish rights and interests in Danzig was to be regarded as an act of aggression, it meant asking Germany to disinterest herself altogether in the Free City, since the whole basis of her former negotiations with Poland had been with a view to modifying the position there in favor of Germany. It was a claim which made the whole situation intolerable and even His Majesty's Government had admitted that there might be modifications to be made.

I told Baron von Weizsaecker that the trouble was that Germany could never see but one side to any question, and always wanted everything modified in her favor. We disputed with acrimony about the rights and wrongs of the case without either apparently convincing the other. With these details I need not trouble you.

I eventually said that what was done could not now be undone. We seemed to be rapidly drifting towards a situation in which neither side would be in a position to give way and from which war would ensue. Did Herr Hitler want war? I was prepared to believe that Germany would not yield to intimidation. Nor certainly could His Majesty's Government. If Germany resorted to force, we would resist with force. There could be no possible doubt whatsoever about that. The position had been finally defined in your Lordship's speech at Chatham House on 29 June and by the Prime Minister's statement in the House of Commons on 10 July. From that attitude we could not deviate.

In reply to a suggestion of mine, State Secretary observed that whereas it might just have been possible before 5 August, it was

absolutely out of the question now to imagine that Germany could be the first to make any gesture. Even apart from the recent Polish ultimatum and the verbal note about aggression, a German initiative could hardly have been possible in view of Colonel Beck's speech on 5 May in which he had deigned to say that if Germany accepted the principles laid down by him Poland would be ready to talk, but not otherwise. That was language which Germany could not admit. I made the obvious retort. State Secretary's only reply was that the fact remained that to talk of a German initiative now was completely academic.

Baron von Weizsaecker then proceeded to say that the trouble was that the German Government's appreciation of the situation was totally different from that of His Majesty's Government. Germany, with innumerable cases of the persecution of Germans before her eyes, could not agree that the Poles were showing calm and restraint. Germany believed that Poland was deliberately running with her eyes shut to ruin. Germany was convinced that His Majesty's Government did not realize whither their policy of encirclement and blind assistance to Poland were leading them and Europe: and that finally his own government did not, would not and could not believe that Britain would fight under all circumstances whatever folly the Poles might commit.

I told Baron von Weizsaecker that the last was a very dangerous theory and sounded like Herr von Ribbentrop who had never been able to understand the British mentality. If the Poles were compelled by any act of Germany to resort to arms to defend themselves there was not a shadow of doubt that we would give them our full armed support. We had made that abundantly clear and Germany would be making a tragic mistake if she imagined the contrary.

State Secretary replied that he would put it differently (and he gave me to understand that the phrase was not his own). Germany believed that the attitude of the Poles would be or was such as to free the British Government from any obligation to follow blindly every eccentric step on the part of a lunatic.

I told the State Secretary that we were talking in a circle. The Polish Government had shown extreme prudence hitherto and would, moreover, take no major step without previous consultation with us; just as in accordance with their military agreement I understood that the German Government would take no irrevocable step without prior consultation with the Italian Government. His Majesty's Government had given their word and must be sole judges of their action. It was consequently hypothetical to speak of "under all circumstances" or of blindly "following Poland's lead."

Baron von Weizsaecker's reply was that Poland had not consulted His Majesty's Government either before M. Chodacki,[1] who could not have so acted without previous authority from Colonel Beck,[2] had addressed his ultimatum to Danzig Senate, or before replying to the German verbal note of 9 August. Yet, in his opinion, both these were major steps fraught with the most serious consequences. He admitted that some of the Poles were, or wished to be, prudent but they were, unfortunately, not the rulers of Poland today. The real policy of Poland, over which His Majesty's Government had no control and of which they probably were ignorant, was the thousands of cases of persecution and excesses against Germans in Poland. It was a policy based on the Polish belief in the unlimited support of the British and French Governments. Who, he asked, could now induce the Poles to abandon such methods? It was those methods, combined with the Polish press articles, which encouraged them, which made the situation no longer tenable and so extremely dangerous. The matter had since 4 August changed to one of the utmost seriousness and urgency. Things had drifted along till now, but the point had been reached when they could drift no longer.

There is no doubt that Baron von Weizsaecker was expressing, as he assured me very solemnly that he was, the considered views of his government and the position as he himself sees it. He told me though he admitted that he could not say anything for certain, that it was likely that Herr Hitler would in fact attend the Tannenberg[3] celebration on 27 August. But he hinted that things might not only depend on a speech. Yet if nothing happens between now and then I fear that we must at least expect there on Herr Hitler's part a war-like pronouncement from which it may well be difficult for him later to withdraw. As Baron von Weizsaecker himself observed, the situation in one respect was even worse than last year as Mr. Chamberlain could not again come out to Germany.

I was impressed by one thing, namely, Baron von Weizsaecker's detachment and calm. He seemed very confident, and professed to believe that Russian assistance to the Poles would not only be entirely negligible, but that the U.S.S.R. would even in the end join in sharing in the Polish spoils. Nor did my insistence on the inevitability of British intervention seem to move him.

[1] Polish Commissioner-General at Danzig, 1937–39.

[2] Polish Foreign Minister.

[3] Village in East Prussia, site of the Battle of Tannenberg, 23–31 August 1914, in which the 8th German Army under von Hindenburg destroyed Samsonov's 2d Russian Army.

PARTIAL TRANSLATION OF DOCUMENT 2943-PS PROSECUTION EXHIBIT 3563

MEMORANDUM OF THE FRENCH CHARGÉ D'AFFAIRES IN LONDON TO THE FRENCH FOREIGN MINISTER, 18 AUGUST 1939, CONCERNING THE CONVERSATION OF DEFENDANT VON WEIZSAECKER AND BRITISH AMBASSADOR HENDERSON AND NOTING THAT LONDON HAD ADVISED THE POLISH GOVERNMENT OF THIS CONVERSATION[1]

M. Roger Cambon, French Chargé d'Affaires in London, to M. Georges Bonnet, Minister for Foreign Affairs

London, 18 August 1939

The British Ambassador had, on the date already mentioned, a conversation with Herr von Weizsaecker, which was very similar to the conversation reported by M. Coulondre, but which dealt exclusively with German-Polish relations and their international repercussions.

In the course of this conversation, the German State Secretary was particularly aggressive and even brutal towards Poland, on account of the notes sent by Warsaw both to the [Danzig] Senate and to the Wilhelmstrasse,[2] and of the treatment meted out to the German-speaking population in Polish territory. Without referring to the possibility of England remaining outside the conflict, he declared that the last limit of German patience had now been reached.

According to Sir Nevile Henderson's account, he replied with equal vigor and put forward the other side of all these questions. Not for one moment did he feel that he was even holding the interest of the person to whom he spoke.

Lord Halifax has had this report sent to Colonel Beck for information.

ROGER CAMBON

[1] This document was taken from the French Yellow Book, item No. 198.

[2] Reference is to the German Foreign Office which was located at the Wilhelmstrasse in Berlin.

933764O—51——68

TRANSLATION OF DOCUMENT NG-2172
PROSECUTION EXHIBIT 173

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO THE OFFICE OF VON RIBBENTROP, 19 AUGUST 1939, TRANSMITTING A REPORT OF DEFENDANT VEESENMAYER, NOTING THE NATURE OF A REQUEST FROM GAULEITER FORSTER OF DANZIG, AND SETTING FORTH A PROPOSED REPLY TO DEFENDANT VEESENMAYER

Berlin, 19 August 1939

Will you please forward the enclosed report of Veesenmayer[1] at once, jointly with the following addition:

"Gauleiter Forster[2] urgently requested me to ask whether the Reich Minister for Foreign Affairs would approve increasing pressure against Poland to the limit. On account of the talks held on 18 [August] about the question of the customs officials, it seems that Poland is prepared to yield, Poland is willing to withdraw about 12 of the customs guards concerned within 8 to 14 days. Further discussions on this matter between Greiser[3] and the Poles are not provided for. On the other hand, the discussions between the customs experts of both parties will start on Monday 21 [August].

"Gauleiter Forster intends to extend claims through his representative to about 50 Polish customs guards and their immediate withdrawal. Should the Poles yield again, it is intended to increase the claims further, in order to make accord impossible. Please submit at once to the Reich Foreign Minister and reply.

"Conclusion of report from Danzig.

"I suggest to reply to Veesenmayer as follows:

"I agree with your idea about how to conduct discussions about the customs officials dispute. Still, discussions will have to be conducted and pressure exerted against Poland in such a way that responsibility for failure to come to an agreement and the consequences rests with Poland.

"Conclusion of reply to Veesenmayer.

"Weizsaecker."

To the Office of the Reich Foreign Minister

(Signed) WEIZSAECKER

[1] This request to von Ribbentrop's office to "forward" this material arose from the fact that von Ribbentrop personally was not in Berlin. The report of Veesenmayer was not a part of the document offered in evidence.

[2] Arthur Greiser was president of the Senate of the Free State of Danzig.
Danzig. After the incorporation of Danzig into the Reich, Forster became Reich Governor (Reichsstatthalter) of Gau Danzig-West Prussia.

[3] Arthur Greiser was president of the Senate of the Free State of Danzig.

TRANSLATION OF DOCUMENT NG-3615
PROSECUTION EXHIBIT 175

TELEGRAM FROM DEFENDANT VEESENMAYER TO DEFENDANT VON WEIZSAECKER, 22 AUGUST 1939, TRANSMITTING "ACTION" PLANNED IN DANZIG

Teletype Station of the Foreign Office

Telegram received from Danzig on . . . at . . .

Veesenmayer to State Secretary Weizsaecker
Strictly secret Please submit immediately
22 August 1939 1707 hours

Action is planned as follows:

1. Long-drawn negotiations in the question of customs guards will end in a complete deadlock. Poles to be blamed for it.

2. Complete removal of all Polish customs guards and abolishing of the customs-frontier to East Prussia will follow.

3. The Poles will react, one way or the other.

4. We shall retaliate with the arrest of numerous Poles in the Danzig area and seize numerous Polish hidden stocks of arms. The finding of these hidden arms is secured.

5. If the Poles do not sufficiently react to this, then finally the Westerplatte[1] shall be attacked.

I do not yet know whether this plan was modified after Forster's conference on 21 August at the Berghof.[2] The corresponding deadlines have also not yet been set. More information will follow after further discussions with Gauleiter Forster.

VEESENMAYER

[Handwritten:] Poland

[1] A Polish munitions depot in the harbor of Danzig.
[2] The Berghof was Hitler's mountain retreat near Berchtesgaden.

TRANSLATION OF DOCUMENT NG-1993
PROSECUTION EXHIBIT 176

TELETYPE FROM DEFENDANT VEESENMAYER TO DEFENDANT VON WEIZSAECKER, 24 AUGUST 1939, NOTING HITLER'S APPROVAL OF CERTAIN OF THE POINTS OF PROPOSED ACTION IN DANZIG[1]

Teletype Office of the Foreign Office

Telegram Danzig 24 August 1939 2010 hours Morning / Afternoon

Veesenmayer to State Secretary Weizsaecker
To be submitted at once

With reference to the teletype of Gauleiter Forster addressed to Berghof at 1230 hours, which I communicated there at once, I inform you that in the meantime reply has been received, according to which points, 1, 2, 3, and 5 have been approved.
[Initial] W [Weizsaecker]

VEESENMAYER

TRANSLATION OF DOCUMENT NG-2376
PROSECUTION EXHIBIT 178

MEMORANDUM FROM THE FILES OF THE FOREIGN OFFICE[2] FOR VON RIBBENTROP, 22 AUGUST 1939, CONCERNING DECLARATIONS TO BE MADE BY GERMAN MISSIONS IN VARIOUS FOREIGN COUNTRIES IN CASE OF WAR WITH POLAND

Berlin, 22 August 1939

In case of complications leading to war with Poland, a Fuehrer proclamation may be expected which will then serve the German missions in foreign countries as a speech directive [Sprachregelung] and should also form the basis of conversations with the respective representatives of foreign powers. In dealing with certain powers, however, it will be advisable to supplement such general verbal guidance by a *special political declaration* which should be kept within the frame of the general directives. Since

[1] This teletype is a follow-up on the defendant Veesenmayer's teletype of 22 August, NG-3615, Prosecution Exhibit 175, reproduced immediately above.

[2] This document was found in the files of the Foreign Office in a folder marked "Foreign Office, Files Concerning Poland." The defense objected to its admission in evidence on the ground that the document was a typed copy, without initials or letterhead, and without indication as to who drew up the document. In admitting the document in evidence, Judge Powers stated: "It is the view of the Tribunal that the mere fact it was there (in the files of the Foreign Office) is of some probative value. It certainly didn't get there by itself. If there are circumstances that affect its credibility, they will be considered by the Tribunal. It is within the province of the defense to show, of course, that they didn't know anything about it, if that is the fact * * *." (Mimeographed transcript 13 Jan. 1948, pp. 594-595.)

declarations of this nature are the most effective the quicker they are made, it will be advisable to outline their tenor here and now. The following particulars should be adhered to:

1. *France and England*—Both these governments should be advised formally that we have no hostile intentions against them. However, should they, on their part, interfere in the conflict with military measures we should regard these as aggressive acts [Angriffshandlungen] aimed at us and, of course, react accordingly.

2. *Belgium*—The statement of the German resolution contained in the German-Belgian exchange of notes of 13 October not to impair the Belgian inviolability and integrity of Belgium under any circumstances and to respect Belgian territory at all times should be restated, this time (following a suggestion of Ambassador von Buelow-Schwante) in the form of a verbal declaration to the Belgian King.

3. *Netherlands, Luxembourg*—These countries, too, should be given to understand that if they maintain their neutrality towards us, we are resolved to respect the integrity of their territory. The ministers should be instructed to make the declarations if possible to the head of state personally or, if that is impossible, to the chief of government.

4. *Switzerland*—A restatement of the resolution to respect the Swiss neutrality will have to be made to the Swiss Government, referring to the repeated clear pronouncements of the Fuehrer in this question.

5. *Holy See*—A declaration to the Holy See couched in the most friendly terms would doubtless be useful. It would add to the effect of such declaration, if at the same time assurance could be given that no further expropriations of church property, in particular in the Ostmark, would take place and that we are ready for an immediate settlement of several more controversial points, as, for instance, the question of Bishop Rusch of Innsbruck. A Fuehrer decision to this effect which should then be communicated to the Reich Minister of Religious Affairs and the Reich Leader SS would be necessary and should be prepared.

6. *Denmark*—A reaffirmation of the German-Danish nonaggression pact of 31 May last should be given to the Danish Government.

7. *Lithuania*—In dealing with the Lithuanian Government, only the assurance of nonviolence in accordance with the Memel agreement of 22 March last should be confirmed. The respective declaration, however, should be couched in particularly friendly terms, possibly indicating our benevolent attitude towards the Lithuanian aspirations on Vilna.

8. *Slovakia*—As regards a declaration to Slovakia, the necessary has been done already. Beyond that, the guaranty of territorial integrity could be renewed and the return of the border district ceded by her to Poland promised to Slovakia.

9. *Hungary*—The amicable information to the Hungarian Government in regard to our attitude should be coupled with a warning not to make the events in its neighborhood the occasion for ill-considered resolutions but to keep in closest contact with us in regard to all questions connected with the conflict.

10. *Yugoslavia*—The Yugoslav Government should be given to understand that we expect an attitude of benevolent neutrality from that country in case of a spreading of the conflict.

11. *Rumania*—The assurance will be renewed to the Rumanian King that we have no hostile intentions against Rumania, but wish to continue our present friendly relations, expecting, however, that Rumania will pursue a policy of strict neutrality and maintain the German-Rumanian economic relations in full operation.

Herewith presented to the Reich Minister for Foreign Affairs with the request for instruction whether, if the occasion arises, the respective directives to the missions involved should be submitted.

TRANSLATION OF DOCUMENT LAMMERS 157
LAMMERS DEFENSE EXHIBIT 108

THE PACT OF NONAGGRESSION BETWEEN GERMANY AND THE UNION OF SOVIET SOCIALIST REPUBLICS, 23 AUGUST 1939

Pact of Nonaggression between Germany and the Union of Soviet Socialist Republics

The Government of the German Reich and the Government of the Union of Soviet Socialist Republics desirous of strengthening the cause of peace between Germany and the U.S.S.R., and proceeding from the fundamental provisions of the Neutrality Agreement concluded in April 1926 between Germany and the U.S.S.R. have reached the following agreement.

Article I

Both High Contracting Parties obligate themselves to desist from any act of violence, any aggressive action, and any attack on each other, either individually or jointly with other powers.

Article II

Should one of the High Contracting Parties become the object of belligerent action by a third power, the other High Contracting Party shall in no manner lend its support to this third power.

Article III

The governments of the two High Contracting Parties shall in the future maintain continual contact with one another for the purpose of consultation in order to exchange information on problems affecting their common interests.

Article IV

Neither of the two High Contracting Parties shall participate in any grouping of powers whatsoever that is directly or indirectly aimed at the other party.

Article V

Should disputes or conflicts arise between the High Contracting Parties over problems of one kind or another, both parties shall settle these disputes or conflicts exclusively through friendly exchange of opinion or, if necessary, through the establishment of arbitration commissions.

Article VI

The present treaty is concluded for a period of ten years, with the proviso that, insofar as one of the High Contracting Parties does not denounce it one year prior to the expiration of this period, the validity of this treaty shall automatically be extended for another five years.

Article VII

The present treaty shall be ratified within the shortest possible time. The ratifications shall be exchanged in Berlin. The agreement shall enter into force as soon as it is signed.

Done in duplicate, in the German and Russian languages.
Moscow, 23 August 1939.

[Handwritten] For the Government of the German Reich
[Signed] v. RIBBENTROP

[Handwritten] With full power of the Government of the U.S.S.R.

With full power of the Government of the U.S.S.R.
[Signed] W. MOLOTOW

PARTIAL TRANSLATION OF DOCUMENT LAMMERS 158
LAMMERS DEFENSE EXHIBIT 109

SECRET ADDITIONAL PROTOCOL TO THE TREATY OF NONAGGRESSION BETWEEN GERMANY AND THE UNION OF SOVIET SOCIALIST REPUBLICS, 23 AUGUST 1939

Memorandum for the Fuehrer

The *secret additional protocol of 23 August 1939* reads as follows:

"Secret Additional Protocol"

On the occasion of the signature of the Nonaggression Pact between the German Reich and the Union of Soviet Socialist Republics,* the undersigned plenipotentiaries of each of the two parties discussed in strictly confidential conversations the question of the boundary of their respective spheres of influence in eastern Europe. These conversations led to the following conclusions:

1. In the event of a territorial and political rearrangement in the areas belonging to the Baltic States (Finland, Estonia, Latvia, Lithuania) the northern boundary of Lithuania shall represent the boundary of the spheres of influence of Germany and the U.S.S.R. In this connection the interest of Lithuania in the Vilna area is recognized by each party.

2. In the event of a territorial and political rearrangement [territorial-politischen Umgestaltung] of the areas belonging to the Polish State the spheres of influence of Germany and the U.S.S.R. shall be bounded approximately by the line of the rivers Narew, Vistula, and San.

The question of whether the interests of both parties make desirable the maintenance of an independent Polish State and how such a State should be bounded can only be definitely determined in the course of further political developments.

In any event both governments will resolve this question by means of a friendly agreement.

3. With regard to southeastern Europe attention is called by the Soviet side to its interest in Bessarabia. The German side declares its complete political disinterestedness in these areas.

---

* This Treaty is the document reproduced immediately above.

4. This protocol shall be treated by both parties as strictly secret.

Moscow, 23 August 1939

[Handwritten] For the Government of the German Reich

[Signed] v. RIBBENTROP

[Handwritten] Plenipotentiary of the Government of the U.S.S.R.

[Signed] W. MOLOTOW

* * * * * * *

TRANSLATION OF DOCUMENT KROSIGK 328
KROSIGK DEFENSE EXHIBIT 188
(Also Document Lammers 159
Lammers Defense Exhibit 110)

LETTER FROM DEFENDANT SCHWERIN VON KROSIGK TO VON RIBBENTROP, WITH ADDITIONAL NOTE ON THE COPY FOR DEFENDANT VON WEIZSAECKER, 23 AUGUST 1939, CONCERNING SCHWERIN VON KROSIGK'S CONVERSATION WITH CIANO ON THE GERMAN-RUSSIAN NONAGGRESSION TREATY, CIANO'S WARNINGS, AND RELATED MATTERS

Copy

Reich Minister of Finance — Rome, 23 August 1939

Dear Herr von Ribbentrop:

First of all my heartiest and best congratulations for the big success achieved by the conclusion of the treaty with the Russians.

This morning at 1000 hours I had a conference with Count Ciano and as agreed, I inform you of its contents.

After the usual words of welcome Count Ciano immediately talked about foreign policy and stressed the importance of your trip to Russia. In spite of this he is of the opinion that if Germany were to take action against Poland, England, and France would immediately join the Poles and participate in the war. The ambassadors of these powers had explicitly and very seriously informed him of this decision only a very short time ago. This would create a very dangerous situation. As a matter of fact, the Axis was not yet fully mobilized, especially as far as economic facilities were concerned. Only in about 3 to 4 years—Count Ciano corrected himself and said with strong emphasis "in 3 years"—it would be ready for war. At the beginning we would certainly achieve successes in the military field, the opponents

would stand up to them and would then conduct a specially organized war of economic attrition which would be of long duration.

In reply to my objection that the Fuehrer had different views on this subject, Count Ciano said that he knew of this fact; he feared however, that the Fuehrer would not be right this time. When I replied that it was completely unbearable for a big nation to watch the way the Poles were treating the Germans without taking action, that it was therefore absolutely necessary to solve the Polish question, and that on this point the entire German nation was in agreement, Count Ciano said that the morale of the Axis peoples would also be of considerable importance. It would be necessary to fight stubbornly and with all means at our disposal, because in case of defeat a peace would be enforced upon us which would practically mean the end of the Axis Powers.

Count Ciano concluded the discussion by stating that in spite of the great diplomatic success of the treaty with Russia he considered the situation to be very grave.

My audience with the Duce will take place tomorrow at 1900 hours. On Friday morning I will return to Berlin.

Heil Hitler!

Yours obediently

Signed: COUNT SCHWERIN VON KROSIGK

[Handwritten paragraph]
Dear Herr von Weizsaecker!

In view of the absence of Herr von Ribbentrop, I am sending you directly a copy of my letter addressed to him.

[Signed] VON KROSIGK

TRANSLATION OF DOCUMENT NG–2006
PROSECUTION EXHIBIT 180

TELEGRAMS OF DEFENDANT WOERMANN TO VON RIBBENTROP IN MOSCOW, 23 AUGUST 1939, TRANSMITTING PRIME MINISTER CHAMBERLAIN'S LETTER OF 22 AUGUST 1939, TO HITLER AND HITLER'S REPLY OF 23 AUGUST 1939 TO CHAMBERLAIN

Copy R.M. 421

Diplogerma Moscow — Berlin, 23 August 1939

No. 200

Telegram

Citissime! [Very urgent]

Urgent—for the personal attention of the Reich Minister for Foreign Affairs.

The State Secretary transmits from Obersalzberg the text of the following letter handed over by Henderson:

"British Embassy, Berlin, 22 August 1939

"Your Excellency,

"Your Excellency will already have heard of certain measures taken by His Majesty's Government, and announced in the press and on the wireless this evening. These steps have, in the opinion of His Majesty's Government, been rendered necessary by the military movements which have been reported from Germany, and by the fact that apparently the announcement of a German-Soviet Agreement is taken in some quarters in Berlin to indicate that intervention by Great Britain on behalf of Poland is no longer a contingency that need be reckoned with. No greater mistake could be made. Whatever may prove to be the nature of the German-Soviet Agreement, it cannot alter Great Britain's obligation to Poland which His Majesty's Government have stated in public repeatedly and plainly and which they are determined to fulfill. It has been alleged that, if His Majesty's Government had made their position clearer in 1914, the great catastrophe would have been avoided. Whether or not there is any force in that allegation, His Majesty's Government are resolved that on this occasion there shall be no such tragic misunderstanding. If the case should arise, they are resolved and prepared, to employ without delay all the forces at their command, and it is impossible to foresee the end of hostilities once engaged. It would be a dangerous illusion to think that, if war once starts, it will come to an early end even if a success on any one of the several fronts on

which it will be engaged should have been secured. Having thus made our position perfectly clear, I wish to repeat to you my conviction that war between our two peoples would be the greatest calamity that could occur. I am certain that it is desired neither by our people, nor by yours, and I cannot see that there is anything in the questions arising between Germany and Poland which could not and should not be resolved without the use of force, if only a situation of confidence could be restored to enable discussions to be carried on in an atmosphere different from that which prevails today. We have been and at all times will be, ready to assist in creating conditions in which such negotiations could take place, and in which it might be possible concurrently to discuss the wider problems affecting the future of international relations, including matters of interest to us and to you. The difficulties in the way of any peaceful discussion in the present state of tension are, however, obvious and the longer that tension is maintained, the harder will it be for reason to prevail. These difficulties, however, might be mitigated, if not removed, provided that there could for an initial period be a truce on both sides—and indeed on all sides—to press polemics and to all incitement.

"If such a truce could be arranged, then, at the end of that period, during which steps could be taken to examine and deal with complaints made by either side as to the treatment of minorities, it is reasonable to hope that suitable conditions might have been established for direct negotiations between Germany and Poland upon the issues between them (with the aid of a neutral intermediary, if both sides should think that that would be helpful).

"But I am bound to say that there would be slender hope of bringing such negotiations to successful issue unless it were understood beforehand that any settlement reached would, when concluded, be guaranteed by other powers.

"His Majesty's Government would be ready, if desired, to make such contribution as they could to the effective operation of such guarantees. At this moment I confess I can see no other way to avoid a catastrophe that will involve Europe in war. In view of the grave consequences to humanity, which may follow from the action of their rulers, I trust that Your Excellency will weigh with the utmost deliberation the considerations which I have put before you.

"Yours sincerely,

Signed: NEVILLE CHAMBERLAIN"

End of the letter handed over by Henderson.

WOERMANN

Copy R.M. 423

Diplogerma Moscow
No. 206

Berlin, 23 August 1939

Telegram

For the personal attention of the Reich Foreign Minister

The reply of the Fuehrer to Chamberlain reads as follows:

"23 August 1939

"Your Excellency,

"The British Ambassador has just handed to me a communication in which Your Excellency draws attention in the name of the British Government to a number of points which in your estimation are of the greatest importance.

"I may be permitted to answer your letter as follows:

"1. Germany has never sought conflict with England and has never interfered in English interests. On the contrary, she has for years endeavored—although unfortunately in vain—to win England's friendship. On this account she voluntarily assumed in a wide area of Europe the limitations of her own interests which from a national-political point of view it would have otherwise been very difficult to tolerate.

"2. The German Reich, however, like every other State, possesses certain definite interests which it is impossible to renounce. These do not extend beyond the limits of the necessities laid down by former German history and deriving from vital economic prerequisites. Some of these questions held and still hold a significance both of a national-political and a psychological character which no German Government is able to ignore. To those questions belong the German City of Danzig, and the connected problem of the Corridor. Numerous statesmen, historians and men of letters even in England have been conscious of this at any rate up to a few years ago. I would add that all these territories lying in the aforesaid German sphere of interest and in particular those lands which returned to the Reich eighteen months ago received their cultural development at the hands not of the English but exclusively of the Germans and this, moreover, already from a time dating back over a thousand years.

"3. Germany was prepared to settle the questions of Danzig and of the Corridor by the method of negotiation on the basis of a proposal of truly unparalleled magnanimity. The allegations disseminated by England regarding a German mobilization against Poland, the assertion of aggressive designs towards

Rumania, Hungary, etc., as well as the so-called guarantee declarations which were subsequently given had, however, dispelled Polish inclination to negotiate on a basis of this kind which would have been tolerable for Germany also.

"4. The unconditional assurance given by England to Poland that she would render assistance to that country in all circumstances regardless of the causes from which a conflict might spring, could only be interpreted in that country as an encouragement thenceforward to unloosen, under cover of such a charter, a wave of appalling terrorism against the one and a half million German inhabitants living in Poland. The atrocities which since then have been taking place in that country are terrible for the victims, but intolerable for a great power such as the German Reich which is expected to remain a passive onlooker during these happenings. Poland has been guilty of numerous breaches of her legal obligations towards the Free City of Danzig, has made demands in the character of ultimata, and has initiated a process of economic strangulation.

"5. The government of the German Reich therefore recently caused the Polish Government to be informed that it was not prepared passively to accept this development of affairs, that it will not tolerate further addressing of notes in the character of ultimata to Danzig, that it will not tolerate a continuance of the persecutions of the German minority, that it will equally not tolerate the extermination of the Free City of Danzig by economic measures, in other words, the destruction of the vital bases of the population of Danzig by a kind of customs blockade, and that it will not tolerate the occurrence of further acts of provocation directed against the Reich. Apart from this, the questions of the Corridor and of Danzig must and shall be solved.

"6. Your Excellency informs me in the name of the British Government that you will be obliged to render assistance to Poland in any such case of intervention on the part of Germany. I take note of this statement of yours and assure you that it can make no change in the determination of the Reich Government to safeguard the interests of the Reich as stated in paragraph 5 above. Your assurance to the effect that in such an event you anticipate a long war is shared by myself. Germany, if attacked by England, will be found prepared and determined. I have already more than once declared before the German people and the world that there can be no doubt concerning the determination of the new German Reich rather to accept, for however long it might be, every sort of misery

and tribulation than to sacrifice its national interests, let alone its honor.

"7. The German Reich Government has received information to the effect that the British Government has the intention to carry out measures of mobilization which, according to the statements contained in your own letter, are clearly directed against Germany alone. This is said to be true of France as well. Since Germany has never had the intention of taking military measures other than those of a defensive character against England or France, and as has already been emphasized, has never intended, and does not in the future intend, to attack England or France, it follows that this announcement as confirmed by you, Mr. Prime Minister, in your own letter, can only refer to a contemplated act of menace directed against the Reich. *I therefore inform Your Excellency that, in the event of these military announcements being carried into effect, I shall order immediate mobilization of the German armed forces.*

"8. The question of the treatment of European problems on a peaceful basis is not a decision which rests on Germany but primarily on those who, since the crime committed by the Versailles dictate, have stubbornly and consistently opposed any peaceful revision. Only after a change of spirit on the part of the responsible powers can there be any real change in the relationship between England and Germany. I have all my life fought for Anglo-German friendship. The attitude adopted by British diplomacy—at any rate up to the present—has however, convinced me of the futility of such an attempt. Should there be any change in this respect in the future nobody could be happier than I."

End of the letter.

WOERMANN

TRANSLATION OF DOCUMENT NG-2374
PROSECUTION EXHIBIT 177

TELEGRAM FROM DEFENDANT VEESENMAYER TO THE FOREIGN OFFICE, 25 AUGUST 1939, REQUESTING THAT HITLER AND VON RIBBENTROP BE INFORMED IMMEDIATELY OF THREE QUESTIONS OF GAULEITER FORSTER IN CONNECTION WITH "D-DAY" IN DANZIG

TELETYPE OFFICE OF THE FOREIGN OFFICE

Telegram received from: Danzig 25 August 11:00
Veesenmayer—to be forwarded to the Fuehrer immediately.

Gauleiter Forster asks me to inquire—

1. Whether on D-Day [Stichtag] the High Commissioner* may be informed that his mission is terminated and whether his house may be confiscated subsequently.

2. Whether the same measures may be taken with regard to the president of the Polish harbor committee.

3. Whether, and in which manner, Gauleiter Forster is to take measures for the immediate evacuation [Abbefoerderung] of the two aforenamed gentlemen.

End of message.

Request same message to be forwarded immediately to Reich Foreign Minister.

TRANSLATION OF DOCUMENT NG-2392
PROSECUTION EXHIBIT 3663

MEMORANDUM OF DEFENDANT WOERMANN TO DEFENDANT VON WEIZSAECKER AND DEPUTY CHIEF OF POLITICAL DIVISION OF FOREIGN OFFICE, 29 AUGUST 1939, NOTING THAT WOERMANN HAD INFORMED THE HUNGARIAN MINISTER THAT GERMAN MILITARY PREPARATIONS WERE COMPLETED AND THAT GERMAN DEMANDS AGAINST POLAND WOULD BE CARRIED INTO EFFECT

Berlin, 29 August 1939

The Hungarian Minister inquired about the situation today. I described it as being as serious as before, pointed out that our military preparations were completed, and stated that our demands against Poland would be carried into effect. The Minister asked about the German-English negotiations. I referred him to the statement of Chamberlain in the House of Commons and

* Reference is to Karl J. Burckhardt, the High Commissioner of the Free State of Danzig, appointed by the League of Nations.

stated that I would not be in a position to give further information. The possibilities connected with it, I described as slight.

[Signed] WOERMANN

State Secretary [Illegible initial]
Dirigent Political Division
[Handwritten] Poland

TRANSLATION OF DOCUMENT 2018-PS
PROSECUTION EXHIBIT 555

DECREE ESTABLISHING A MINISTERIAL COUNCIL FOR REICH DEFENSE, 30 AUGUST 1939, SIGNED BY HITLER, GOERING, AND DEFENDANT LAMMERS

1939 REICHSGESETZBLATT, PART I, PAGE 1539

Decree of the Fuehrer concerning the Establishing of a Ministerial Council for the Reich Defense 30 August 1939

For the period of the present foreign political tension, I decree the following for the uniform leadership of administration and the economy:

I

(1) From the Reich Defense Council a "Ministerial Council for Reich Defense" is established as a permanent committee.

(2) The standing members of the Ministerial Council for Reich Defense shall include: Field Marshal Goering as chairman, Fuehrer's Deputy, Plenipotentiary General for Reich Administration, Plenipotentiary General for the Economy, Reich Minister and Chief of the Reich Chancellery, Chief of the High Command of the Armed Forces.

(3) The chairman may draw on other members of the Reich Defense Council including further personalities for advice.

II

The Ministerial Council for Reich Defense may issue decrees with statutory effect, insofar as I have not provided for the passing of a law by the Reich Government or the Reichstag.

III

The authority of Field Marshal Goering under the Decree for the Administration of the Four-Year Plan of 13 October 1936 (RGB1. I 887) including his power to issue instructions shall remain unaffected.

933764O—51——69

IV

The Reich Minister and Chief of the Reich Chancellery shall supervise the business of the Ministerial Council for Reich Defense.

V

I shall determine the period for the expiration date of this decree.

Berlin, 30 August 1939

The Fuehrer
ADOLF HITLER
GOERING
Field Marshal

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

TRANSLATION OF DOCUMENT 3077-PS
PROSECUTION EXHIBIT 488

LAW CONCERNING THE REUNION OF THE FREE CITY OF DANZIG WITH THE GERMAN REICH, 1 SEPTEMBER 1939, SIGNED BY HITLER, FRICK, HESS, GOERING, VON RIBBENTROP, AND THE DEFENDANT LAMMERS

1939 REICHSGESETZBLATT, PART I, PAGE 1547

The Reichstag has unanimously passed the following law which is hereby published:

Article 1

The statute issued by the head [Staatsoberhaupt] of the Free City of Danzig concerning the reunion of Danzig with the German Reich is hereby made a law of the Reich. Its text is as follows:

Article I: The Constitution of the Free City of Danzig is hereby abolished.

Article II: All legislative and executive power is vested in the Head of the City.

Article III: The Free City of Danzig, with its territory and its citizens, is hereby incorporated into the German Reich.

Article IV: Until the introduction of German Reich law finally decreed by the Fuehrer, all laws and statutes in force at the time the present statute is issued shall remain in force with the exception of the constitution.

Danzig, 1 September 1939

ALBERT FORSTER

Article 2

The citizens of the former Free City of Danzig shall become German citizens in accordance with provisions to be issued.

Article 3

In the territory of the former Free City of Danzig the law heretofore in force, with the exception of the Constitution of the Free City of Danzig, shall remain in effect until further notice.

Article 4

(1) In the former Free City of Danzig, the entire body of Reich law and Prussian law shall take effect as of 1 January 1940.

(2) The Reich Minister concerned may, in agreement with the Reich Minister of the Interior, determine that certain Reich laws or Prussian laws shall not take effect or shall take effect at a later date or subject to certain modifications. Any such decree shall be published in the Reich Law Gazette.

(3) The Reich Minister of the Interior, in agreement with the Reich Ministers concerned may, by means of ordinances, introduce Reich law and Prussian law before 1 January 1940.

Article 5

(1) The Reich Minister of the Interior is the officer chiefly responsible for matters connected with the reunion of Danzig with the German Reich.

(2) The Reich Minister of the Interior is hereby authorized to promulgate general rules and regulations necessary for the enforcement and implementation of this Act.

Article 6

This statute shall take effect as of 1 September 1939.

Berlin, 1 September 1939

The Fuehrer and Reich Chancellor
ADOLF HITLER

The Reich Minister of the Interior
FRICK

The Deputy of the Fuehrer
R. HESS

The Plenipotentiary for the Four Year Plan
GOERING

Field Marshal, Minister President of Prussia
Reich Minister for Foreign Affairs
VON RIBBENTROP

Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

PARTIAL TRANSLATION OF DOCUMENT NG–4849
PROSECUTION EXHIBIT 3665

TELEGRAM FROM DEFENDANT WOERMANN TO THE GERMAN EMBASSY IN MOSCOW, 4 SEPTEMBER 1939, ANALYZING THE CONDUCT OF GREAT BRITAIN IN CONNECTION WITH THE OUTBREAK OF WAR

From Berlin, 4 September 1939 at 0126 hours
Arrived Moscow, 4 September 1939 at 0755 hours
Tel. No. 255 of 3 September German Embassy, Moscow
[Illegible handwriting]
[initial] HI [Hilger] 4 September
[initial] v. T. [von Tippelskirch] 4 September

After the attempt of direct German-Polish negotiation had remained without result because of nonappearance of the Polish plenipotentiary—the German Government had been waiting for 2 days—and after we had been forced to reply to Polish military excesses by going over to military action, England and France on 1 September demanded from us the recalling of German troops from Polish territory. It still seemed possible even then to ban the danger of war by the intervention of Mussolini who proposed an armistice with subsequent conference for the solution of the German-Polish conflict. This proposal was answered positively by us as well as by the French Government. British Government however today with 2-hour time limit repeated the demand for withdrawal of German troops and declared itself to be at war with Germany after the lapse of this time. France then followed with the notice that she finds herself obliged to aid Poland. Reasonable German-Polish settlement would have been achieved long ago without Great Britain's interference and her anti-German encirclement policy. Instead of advising Poland to take a more conciliatory attitude Great Britain gave her a blanket power of attorney against Germany, brought herself into a state of dependency on Poland's decisions and finally in the last moment by her attitude even condemned Mussolini's proposal to failure. Thus the seeds of those men in England, who have been preaching for years the destruction of Germany, have borne fruit. This sequence of events shows quite clearly the full responsibility of England for the outbreak of war.

[Initials] Sch [von der Schulenberg] 4 September
Made out in 2 copies: WOERMANN

1. to the files A
2. To the chronological collection
   This is No. 1

TRANSLATION OF DOCUMENT NG–4045
PROSECUTION EXHIBIT 3666

CIRCULAR LETTER FROM DEFENDANT WOERMANN TO NUMEROUS GERMAN DIPLOMATIC OFFICES, 7 SEPTEMBER 1939, TRANSMITTING THE GERMAN WHITE BOOK OF POLAND AND EXPLAINING "ENGLAND'S GUILT," "POLAND'S GUILT," AND "FRANCE'S ATTITUDE"

[Handwritten] 9 Germany War
Foreign Office, Political Division XI 3
[Stamp] German Embassy at the Holy See
Berlin, 7 September 1939
Arrived 18 September 1939
A 556 courier

Subject: Official German White Book concerning the last phase of the German-Polish crisis

[Handwritten] Tel. No. 67 of 7 September, A 506
[Handwritten] Courier, 1 package

The German White Book *"Documents Concerning The Last Phase of the German-Polish Crisis"** which was just published and is enclosed herewith, contains the official documents concerning the events that led to the present conflict and is therefore to be used as the basis for all discussions of this problem.

In order to facilitate the understanding of the White Book the following points will be explained in the following:

1. *The System* [Zur Methodik]

Next to the fundamental speech of the Fuehrer of 1 September, the White Book contains a collection of official documents, which had been exchanged between the governments involved. Only in cases in which it seemed necessary for the understanding of the total development, were other texts added as an addition, for example, those concerning the Polish mobilization. On the other hand no internal notes were included in the documents; the main contents of discussions of political importance were, however, used in the preliminary notes. The preliminary remarks constitute a concise factual summary of the course of events, which is substantiated in its details by the documents. The character of the White Book which is to be an official documentary description demanded that any kind of polemics were omitted. The debate which will necessarily arise when our opponents bring out

* This White Book is not reproduced herein in full. However, some of the documents hereinbefore reproduced were taken from this source.

their publications, especially the British White Paper will have to be left to individual supplementary publications.

2. *The Facts*

The White Book deals only with the incident directly leading [Anlass] to the conflict. No conclusion should be drawn from this that this incident is of greater importance than its deeper causes, which are to be found in the Versailles Treaty, the reopening of British encircling policies and the intransigency of Poland connected with this and its subsequent joining of the anti-German front. In any discussion of the question of the "war guilt" the actual *causes* will always have to be considered first.

With regard to the incident leading up to the outbreak of the war as described in the White Book the following will have to be stated:

a. England's guilt

The exchange of opinions between Britain and Germany up to 1 September clearly reveals that though the British Government pretended to accept the generous offer of the Fuehrer, as far as its *form* was concerned, but that with regard to the actual *matter*, it was only anxious to delay the necessary decisions and, was especially not willing to exercise any strong influence on the Polish Government (compare especially the British memorandum of 30 August, enclosure 14 of the White Book).

If, on the other hand the British claim that the British Government could not persuade Poland to change its attitude because it did not know the German proposals with regard to a settlement of the problem of Danzig and the Corridor and of the minority question, it must be stated that the German memorandum of 29 August addressed to the British Government (enclosure 12 of the White Book) contained already the main contents of the German demands. In addition to this during the night of 31 August the British Ambassador was informed of the German suggestions which had been worked out in the meantime, and they were explained to him in detail (compare figure 7 of the preliminary notes).

After 1 September, the British Government's sabotaging of Mussolini's suggestion openly revealed its decision to bring about the general conflict. (For details compare figures 11–12 of the preliminary notes as well as enclosures 20, 22, and 25, figure 3 of the White Book.) We Germans have to point out this decisive British attitude with special emphasis.

b. Poland's guilt

Poland, to whom the blank endorsement given her by the Western Powers gave strong moral support, showed her definite un-

willingness to meet the Fuehrer's offer even halfway through the fact that no Polish intermediaries arrived on 30 and 31 August; Ambassador Lipski's appearance without any power to negotiate was no substitute. That, in addition to this, Warsaw was going to force the conflict to a head—overestimating thereby its own military strength—but especially trying to use frivolously the coalition established and existing at that time in favor of Poland for her own benefit, can be seen from the serious border incidents of the last decisive days (compare the Fuehrer speech page 24, last paragraph of the White Book) especially, however, from the announcement of the Polish general mobilization of 30 August (enclosure 31). The Poles will have no excuse that the German proposal had not been known in Warsaw until their publication through the German radio (compare enclosure 15). With regard to this it must be stated that the Polish Government which had already been informed via London as early as 30 August about the German memorandum of 29 August and thus knew about the main contents of the German demands, received information about the details of the German proposals through the British during the forenoon of 31 August.

c. France's attitude

The attitude of France during the last phase of the crisis differs noticeably from that of the British. Especially the favorable reaction towards the Italian proposal to intervene which was made on 2 September (enclosure 21) shows that France made efforts to achieve a friendly compromise even after hostilities had started in the East and that she only was too weak to withstand British pressure. It is, furthermore, to be noticed that the French *démarches* of 1 and 3 September came after those of the British, as far as the time element was concerned—the one of 3 September came 4 hours later, and the French note of 3 September (enclosure 26) avoids to pronounce any declaration of war. Thus France's intervention is to be explained from a weakness only but not from the endeavor to unloosen the general conflict; this cannot be emphasized strongly enough on the part of Germany, which, at the same time will have also to emphasize the opposite attitude of Great Britain.

With regard to Germany's attitude concerning France the guiding explanations of the Reich Foreign Minister given to the French Ambassador during their last conference (compare figure 12 of the preliminary notes) must also be pointed out.

BY ORDER

[Signed] WOERMANN

[Distribution:]

[Illegible initials] 18 September

To the German Embassy in—

Ankara, Brussels, Buenos Aires, Madrid (San Sebastian), Moscow, Nanking (Shanghai), Rio de Janeiro, Rome (Quirinal), Rome (Holy See), Santiago, Tokyo, Washington.

The German Legation in—

Asuncion, Athens, Bangkok, Belgrade, Berne, Bogota, Budapest, Bucharest, Caracas, Dublin, Guatemala [city], The Hague, Havana, Helsinki, Hsinking [Changchun], Kabul, Copenhagen, Kovno, La Paz, Lima, Lisbon, Luxembourg, Mexico, Montevideo, Oslo, Panama, Port-au-Prince, Bratislava, Quito, Reval, Riga, Sofia, Stockholm, Teheran.

The German Consulate General in—

Addis Ababa, Amsterdam, Antwerp, Barcelona, Batavia, Bombay, Canton, Chicago, Danzig, Genoa, Hankow, Hongkong, Istanbul, Kobe (Osaka), Milan, New York, San Francisco, Sao Paulo, Shanghai, Tientsin, Tirana, Valparaiso, Zagreb, Zurich.

The German Consulate in—

Apenrade [Aabenraa], Bahia, Barranquilla, Basle, Bergen, Bilbao, Boston, Bolzano, Chungking, Cleveland, Chernovtsy, Dairen, Florianopolis, Galati, Geneva, Goeteborg, Harbin, Izmir, Kronstadt, Lagos, Ljubljana, Los Angeles, Lourenco Marques, Luanda-Angola, Liége, Maastricht, Malmoe, Manila, Monrovia, Mukden, Naples, New Orleans, Palermo, Posadas, Reykjavik, Rotterdam, Salonika, Sarajevo, Seattle, St. Gallen, St. Louis, Tabriz, Temesvar [Timisoara], Tetuan, Trabzon, Trieste, Tsingtao, Turin, Varna, Yokohama.

TRANSLATION OF DOCUMENT LAMMERS 192
LAMMERS DEFENSE EXHIBIT 141

GERMAN-SOVIET BOUNDARY AND FRIENDSHIP TREATY, 28 SEPTEMBER 1939, DEFINING THE BOUNDARY OF THE RESPECTIVE NATIONAL INTERESTS OF GERMANY AND THE SOVIET UNION "IN THE TERRITORY OF THE FORMER POLISH STATE" AND RELATED MATTERS

German-Soviet Boundary and Friendship Treaty

The government of the German Reich and the government of the U.S.S.R. consider it as exclusively their task, after the collapse of the former Polish state, to reestablish peace and order in these territories and to assure to the peoples living there a peaceful life in keeping with their national character. To this end, they have agreed upon the following:

Article I: The government of the German Reich and the government of the U.S.S.R. determine as the boundary of their respective national interests in the territory of the former Polish State the line marked on the attached map, which shall be described in more detail in a supplementary protocol.

Article II: Both parties recognize the boundary of the respective national interests established in Article I as definitive and shall reject any interference of third powers in this settlement.

Article III: The necessary reorganization of public administration will be effected in the areas west of the line specified in Article I by the government of the German Reich, in the areas east of this line by the government of the U.S.S.R.

Article IV: The government of the German Reich and the government of the U.S.S.R. regard this settlement as a firm foundation for a progressive development of the friendly relations between their peoples.

Article V: This treaty shall be ratified and the ratifications shall be exchanged in Berlin as soon as possible. The treaty becomes effective upon signature.

Done in duplicate, in the German and Russian languages.

Moscow, September 28, 1939

For the Government of the German Reich
[Signed] v. RIBBENTROP

By authority of the Government of the U.S.S.R.
[Signed] W. MOLOTOW

TRANSLATION OF DOCUMENT 3560-PS
PROSECUTION EXHIBIT 490

DECREE ON THE ORGANIZATION AND ADMINISTRATION OF THE EASTERN TERRITORIES, 8 OCTOBER 1939, SIGNED BY HITLER, GOERING, FRICK, HESS, AND DEFENDANT LAMMERS

1939 REICHSGESETZBLATT, PART I, PAGE 2042

Decree of the Fuehrer and Reich Chancellor on the Organization and Administration of the Eastern Territories

Article 1

(1) In the course of the reorganization [Neuordnung] of the eastern territories the Reich Gaue West Prussia and Posen [Poznan] are formed within the boundaries [im Verbande] of the German Reich.

(2) At the head of the Reich Gau is a Reich Governor [Reichsstatthalter].

(3) The Reich Governor of West Prussia has his seat in Danzig. The Reich Governor of Posen has his seat in Posen.

Article 2

(1) The Reich Gau West Prussia is composed of the Government districts [Regierungsbezirke] Danzig, Marienwerder [Kwidzyn] and Bromberg [Bydgoszcz].

(2) The Reich Gau Posen is composed of the Government districts of Hohensalza [Inowroclaw], Posen and Kalisch [Kalisz].

Article 3

(1) In the organization of the administration in the Reich Gaue the regulations of the law concerning the organization of the administration in the Reich Gau Sudetenland (Sudetengau Law) of 14 April 1939 (Reich Law Gazette I p. 780) are valid so far as not otherwise stated in this decree.

(2) All the branches of the administration belong to the competence of the Reich Governor. The Reich Minister of the Interior in agreement with the competent Reich Minister determines the transfer of single branches of the administration to the existing special Reich administrations. Special authorities on the level of the Kreis are for the present subordinate to the Landraete.*

Article 4

With the inclusion of adjoining areas in the province Silesia the government district Kattowitz [Katowice] and in the province East Prussia the government district Zichenau will be formed.

Article 5

(1) The Reich Minister of the Interior in agreement with the Prussian Minister President determines the borderline of the administrative districts (articles 1, 2, and 4) as far as the administration borders between the returned areas and the adjacent provinces are concerned.

(2) The Reich Minister of the Interior regulates the formation into town and rural districts [Landkreise] as far as this is necessitated by the new organization.

Article 6

The inhabitants of German and racially related blood of the incorporated territories will become German citizens [deutsche Staatsangehoerige] according to regulations to be issued. Racial

* Landrat (raete), highest administrative official(s) of a county.

Germans in these areas will become Reich citizens [Reichsbuerger] according to the Reich Citizenship Law.[1]

Article 7

The hitherto valid laws remain in force until further notice as far as they are not detrimental to the incorporation into the German Reich.

Article 8

The Reich Minister of the Interior in agreement with the competent Reich Minister can introduce Reich law and Prussian state law by way of decree.

Article 9

For the territory of the former Free City of Danzig the regulation of Articles 3 and 4 of the law on the reunion of the Free City of Danzig with the German Reich of 1 September 1939[2] (Reich Law Gazette I p. 1547) remains unaffected.

Article 10

The Reich Minister of Finance in agreement with the Reich Minister of the Interior regulates the questions resulting from the new organization in the sphere of the financial adjustment.

Article 11

(1) The financial settlements which are necessary on the occasion of the new organization and the steps connected herewith will be decreed by the Reich Minister of the Interior and the Reich Minister of Finance or the authorities appointed by them.

(2) Decrees according to section 1 establish rights and duties of those concerned and effect the transition, the limitation and abolition of law relating to property.

Article 12

(1) Central office for the new organization of the eastern territories is the Reich Minister of the Interior.

(2) He issues the legal and administrative regulations necessary for the execution and completion of this decree.

Article 13

(1) This decree becomes effective on 1 November 1939.

(2) The Reich Minister of the Interior can enforce the regu-

[1] The Reich Citizenship Law (1935 Reichsgesetzblatt, part I, p. 1146), and The Law of German Blood and Honor (1935 Reichsgesetzblatt, part I, p. 1146) were the two original "Nuernberg laws." They are reproduced in the volume of this series dealing with the "Justice Case," volume III, section IV–B.

[2] Document 3077–PS, Prosecution Exhibit 488, reproduced earlier in this section.

lations of this decree for single parts of the territory at an earlier date.

Berlin, 8 October 1939

The Fuehrer and Reich Chancellor
ADOLF HITLER
The President of the Ministerial
Council for Defense of the Reich
GOERING, Field Marshal
The Reich Minister of the Interior
FRICK
The Deputy of the Fuehrer
R. HESS
The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

TRANSLATION OF DOCUMENT 2537-PS
PROSECUTION EXHIBIT 491

DECREE OF THE FUEHRER AND REICH CHANCELLOR CONCERNING THE ADMINISTRATION OF THE OCCUPIED POLISH TERRITORIES, 12 OCTOBER 1939

1939 REICHSGESETZBLATT, PART I, PAGE 2077*

In order to restore and maintain public order and public life in the occupied Polish territories, I decree:

Section 1

The territories occupied by German troops shall be subject to the authority of the Governor General of the occupied Polish territories, except insofar as they are incorporated within the German Reich.

Section 2

(1) I appoint Reich Minister Dr. Frank as Governor General of the occupied Polish territories.

(2) As Deputy Governor General I appoint Reich Minister Dr. Seyss-Inquart.

Section 3

(1) The Governor General shall be directly responsible to me.

(2) All branches of the administration shall be directed by the Governor General.

* This document was introduced in the IMT trial as Exhibit Frank-2 the full German text is reproduced in Trial of the Major War Criminals, op. cit., volume XXX, pages 595-597.

Section 4

The laws at present in force shall remain in force, except insofar as they are in conflict with the taking over of the administration by the German Reich.

Section 5

(1) The Ministerial Council for Defense of the Reich, the Plenipotentiary for the Four Year Plan, and the Governor General may legislate by decree.

(2) The decrees shall be promulgated in the official gazette for the occupied Polish territories.

Section 6

The Chairman of the Ministerial Council for Defense of the Reich and Plenipotentiary for the Four Year Plan, and also the Supreme Reich Authorities, may make the arrangements required for the planning of German life and the German economic sphere with respect to the territories subject to the authority of the Governor General.

Section 7

(1) The cost of administration shall be borne by the occupied territory.

(2) The Governor General shall draft a budget. The budget shall require the approval of the Reich Minister of Finance.

Section 8

(1) The central authority for the occupied Polish territories shall be the Reich Minister of the Interior.

(2) The administrative decrees required for the implementing and supplementing of the present decree shall be issued by the Reich Minister of the Interior.

Section 9

(1) The present decree shall come into force as soon as and to the extent to which I withdraw the order given to the Commander in Chief of the Army for the exercise of military administration.

(2) Authority for the exercise of executive power shall be the subject of special provisions.

Berlin, 12 October 1939

The Fuehrer and Reich Chancellor

ADOLF HITLER

The Chairman of the Ministerial Council for Defense of the Reich and Plenipotentiary for the Four Year Plan
GOERING, Field Marshal
The Minister of the Interior
FRICK
The Deputy of the Fuehrer
R. HESS
The Chief of the High Command of the Armed Forces
KEITEL
The Commander in Chief of the Army
VON BRAUCHITSCH
The Minister for Foreign Affairs
VON RIBBENTROP
The Reich Minister of Finance
COUNT SCHWERIN VON KROSIGK
The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

PARTIAL TRANSLATION OF DOCUMENT NG-2493 PROSECUTION EXHIBIT 494

EXTRACT OF LETTER FROM DEFENDANT LAMMERS TO SCHICKEDANZ, STAFF LEADER OF THE FOREIGN POLITICAL OFFICE OF THE NAZI PARTY, 21 DECEMBER 1939, AWARDING HIM A LUMP SUM FOR HIS WORK AS LAMMERS' REPRESENTATIVE WITH THE GOVERNOR GENERAL FOR THE OCCUPIED POLISH TERRITORIES

The Reich Minister and Chief of the Reich Chancellery
Rk. 30830 B Berlin W 8, 21 December 1939
Voss Strasse 6

To Reichshauptamtsleiter Schickedanz*
Staff Leader of the Foreign Political Office of the NSDAP
Berlin W 35, Margaretenstrasse 17

For your work as my representative with the Governor General for the occupied Polish territories I have awarded you, effective 6 November 1939, the day you reported for duty, till 31 December 1939, a lump sum [Pauschalverguetung], which taking into account the reduction of salaries, amounts to a total of 3,000 Reichsmarks. For the time after 1 January 1940 I reserve a further decision.

* * * * * * *

[Signed] DR. LAMMERS

* Schickedanz was the author of a "Plan for the East" sent to defendant Lammers on 15 June 1939 (Doc. 1365-PS, Pros. Ex. 487, reproduced earlier in this section).

TRANSLATION OF DOCUMENT WEIZSAECKER 371
WEIZSAECKER DEFENSE EXHIBIT 124

COPY OF A MEMORANDUM FROM DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 9 JANUARY 1940, CONCERNING MUSSOLINI'S VIEWS ON THE WAR*

To the Reich Foreign Minister — 9 January 1940

I interpret the *letter of the Duce to the Fuehrer* as follows:

1. Fear is the Italian motive. If Germany conquers, Italy will be safe from the advance of bolshevism and from the overbearing of the Western Powers. If the World War peters out, Italy will neither have won nor lost anything. If Germany is defeated, Fascist Italy will be in danger; the circumstances do not encourage Mussolini to imitate the example of 1915.

2. The Duce does not believe in a victory in the West. Any attempt to force such a decision in his opinion will lead to Europe going Bolshevist. He therefore wants Germany not to look for military decisions in the West but to moderate her military aims. In this case he believes an advantageous peace to be possible and offers his good services to this effect.

3. It goes without saying that the Duce's advice is motivated by Italian egotism but at the same time it is the *advice of a friend.* If it is rejected, the Duce will certainly have freedom of action, and wants to have it. His futile warning will serve him then as identification [Ausweis] with the Western Powers.

The Duce's letter clearly indicates a parting of roads [following part of this sentence crossed out: and is apparently the last serious effort towards a friendly attempt of influencing]. It must be taken seriously.

* In offering this document in evidence, defense counsel said: "This is a draft of a note submitted by Weizsaecker to Ribbentrop on 9 January 1940, in Weizsaecker's handwriting. This is Weizsaecker's personal copy" (*Tr. p. 6503*).

TRANSLATION OF DOCUMENT NG-1442
PROSECUTION EXHIBIT 498

LETTER FROM DEFENDANT LAMMERS TO SCHICKEDANZ, 31 MAY 1940, AWARDING HIM A FURTHER LUMP SUM AS LAMMERS' REPRESENTATIVE WITH THE GOVERNOR GENERAL OF THE OCCUPIED POLISH TERRITORIES AND WITH THE REICH COMMISSIONER FOR THE OCCUPIED NORWEGIAN TERRITORIES

The Reich Minister and Chief of the Reich Chancellery
RK 8510 B

Berlin W 8, 31 May 1940
Voss Str. 6
At present the Fuehrer Headquarters

All mail to be addressed to Berlin

To Reichshauptamtsleiter Schickedanz,
Staff Leader of the Foreign Political Office of the NSDAP
Berlin W. 35, Margaretenstrasse 17

In payment for your work as my representative [Beauftragter] with the Governor General of the occupied Polish territories and with the Reich Commissioner for the occupied Norwegian territories I allotted to you for the period from 1 January to the end of May of this year a lump sum which in view of the cuts in salaries, amounts to altogether 7,100 RM. I reserve further decisions for the time from 1 June 1940 onward.

I have caused this amount to be remitted to your account with the Commerz—und Privatbank, Deposit-Section C, Berlin NW 7, Unter den Linden 19, after deduction of income tax and war surtax.

[Signed] DR. LAMMERS

TRANSLATION OF DOCUMENT 646-PS
PROSECUTION EXHIBIT 497

LETTER FROM DEFENDANT LAMMERS TO THE SUPREME REICH AUTHORITIES, 22 JUNE 1940, TRANSMITTING COPIES OF OPINIONS OF THE FOREIGN OFFICE AND THE HIGH COMMAND OF THE GERMAN ARMED FORCES ON THE POSITION OF OCCUPIED POLAND IN INTERNATIONAL LAW

Reich Minister and Chief of the Reich Chancellery
Rk. 393 Bg

Berlin W 8, 22 June 1940
Voss-strasse 6

[Stamp] At present Fuehrer Headquarters Mail is without exception to be directed to the Berlin address.

It is required to quote this file number in future reference.

[Stamp] Secret

[Stamp] 28 June 1940

[Stamp] Reich Ministry of Justice, Dept. V, 27 June 1940

[Initial] S [Schlegelberger]* 27 June
[Initial] A 27 June

To the Supreme Reich Authorities:

I am obediently enclosing copies of letters from the Foreign Office and the High Command of the Armed Forces, concerning the significance of the collapse of the Polish State from the point of view of international law, for [your] confidential information.

[Signed] DR. LAMMERS

[Handwritten] Asking for resubmission on 11 July.

[Signed] KRAMM 27 June

Submitted 11 July. [Initial] E

[Handwritten]

1. Seen.

2. To be immediately submitted to the Minister upon his return. Date 28 June, [Initial] G

[Handwritten] Instructions on reverse!

* Franz Schlegelberger, State Secretary in the Reich Ministry of Justice, was a defendant in the "Justice Case," Case 3, United States *vs.* Josef Altstoetter, et al., volume III, this series. The application of various German laws to occupied Poland was one of the most important issues in the "Justice Case". As the entries on this document show, this document was the copy of the letter which the defendant Lammers sent to the Reich Ministry of Justice.

933764O—51——70

[Reverse side]

1. To the department chiefs for their information with the request to inform the competent reference.

2. To be submitted again after No. 1 is carried out.

B. 5 July 40

[Signed] QUASSOWSKI
[Initials] KR [KRIEGE] 5 July
[Illegible initials]

Regarding 1.

~~Min. Dir. I~~ [crossed out]
Min. Dir. II. [Illegible handwriting]
~~Min. Dir. III.~~ [crossed out] [Initial] M [Mettgenberg] 18 July
Min. Dir. IV. [Illegible initial] 9 July Min. Dir. Mettgenberg after conversation for his information [Illegible initial] 13 July
~~Min. Dir. V.~~ [crossed out]
~~Mn. Dir. VI.~~ [crossed out]
VII. Pres. Dr. Palandt [Initial] P [Palandt] 11 July

[Stamp] Submitted E. 18 July

1. Note: Ministerialrat Globke (Ministry of the Interior) told me that the Ministry of the Interior regards former Polish nationals at present as "stateless."

[Signed] KRIEGE 23 July

2. To the files.

B. 24 July 40.

[Initials] QU [QUASSOWSKI]
[Initial] K [KRIEGE] 23 July

Opinion of the Foreign Office on the Position of Occupied Poland in International law as transmitted in letter, 15 May 1940, from defendant von Weizsaecker to defendant Lammers

Foreign Office
R 620 g

Berlin, 15 May 1940

Subject: The significance of the collapse of the Polish State from the point of view of international law.

[Stamp] Secret

1 Enclosure.

Enclosed you will find the copy of a letter from the High Command of the Armed Forces* concerning international law questions resulting from the collapse of the Polish State. The Foreign Office agrees with the concept held by the High Command of the Armed Forces on the whole. As far as international law is concerned, the following is to be added to the letter of the High Command of the Armed Forces:

A Polish State, at war with the German Reich does not exist any more. The territories of the former Polish Republic, have—after the annihilation of the Polish Army—been put under the sovereignty of other States. In the German-Soviet Border-Agreement and Friendship Pact of 28 September 1939 (RGB1. [Reichsgesetzblatt] 1940, part II. p. 4), this factual and legal state of affairs is especially emphasized by the fact that the preamble mentions "the collapse of the hitherto existing Polish State," and Article 1, as well as the appendix speak of the territory of the "former Polish State." The unpublished German-Slovak Border Agreement of 21 November 1939, which was the basis for the incorporation of the former Polish border territory into the Slovak State territory, mentions the "former Polish State," and the Slovak Constitutional Law of 22 December 1939—(Slovensky sakonnik, part 71) on the annexation of these territories, mentions the "former Polish Republic." The Foreign Office's note verbale of 20 November 1939—to the Swedish Legation in Berlin, —which is mentioned in the letter of the High Command of the Armed Forces, represents the same concept. In this note the Foreign Office informs the Swedish Legation that the assumptions on which the Swedish Government based its acceptance of responsibility for the protection of Polish interests in the German Reich, have—in the opinion of the Reich government—gone out of existence through the development of events. The protective mandate by the Swedish Legation has consequently to be regarded as terminated.

The proposed organization of a Polish Puppet Government outside Poland—after the collapse of the Polish State—is of no legal significance. Various States, such as Hungary and Italy, have met the situation by leaving the notification of the organization of the Puppet Government, unanswered. The facts that the former Polish diplomatic representatives are serving the Puppet Government and that military formations consisting of Polish nationals, have been organized in France and England, do not imply the continued existence of a Polish State. Furthermore, the continuation of the war by England and France—the Allies

* Document reproduced below as part of this exhibit.

of the former Polish Republic—against Germany, represents no factor against the extinction of the Polish State.

With reference to the last paragraph of the letter by the High Command of the Armed Forces of 15 April 1940, the Foreign Office wishes to suggest that the Supreme Reich Authorities as well as the Governor-General for the occupied Polish territories and the Reich Protector for Bohemia and Moravia be informed of the view-points mentioned above and in the enclosure.

However, the Foreign Office does not desire that this letter, especially the arguments about the extinction of the Polish State become publicly known.

As Deputy:

Signed: VON WEIZSAECKER

To the Reich Minister and Chief of the Reich Chancellery.

Opinion of the High Command of the Armed Forces concerning the application of the Hague and Geneva Conventions in Occupied Poland and related matters, as expressed in letter, 15 April 1940, from the Armed Forces High Command to the Foreign Office

Berlin W 35, 15 April 1940

Copy R 620 secret
High Command of the Wehrmacht
3a 52 WFA/Branch L (IV d)
406/40 secret 2. Ang.

Subject: Application of the terms War, Theater of War, etc., to the occupied Polish territories. (Government General.)

In official conversations concerning the occupied Polish territories frequently doubts continue to come up which emanate from the question whether or not the Polish State exists with which Germany is at war (see also the German Political Report of 1 February 1940 noon).

Clarification of this and of connected questions appears necessary; it touches to considerable extent on Wehrmacht interests (necessity to observe the provisions of the Hague Convention on Land Warfare, treatment of prisoners of war, etc.).

The opinion of the High Command of the Wehrmacht on this matter may be summarized briefly as follows:

The war with Poland has reached its end through the annihilation of the former Polish State, a fact which cannot be changed by the attitude of the Western Powers or the assistance of a Polish bogus government in London or Paris.

The Fuehrer has given expression to his opinion on these questions by, for example, withdrawing after the termination of the Polish campaign as early as October 1939 the authority to exercise executive power vested in the Commander in Chief of the Army and the Military Administration in the occupied Polish territories and by appointing a Governor General for the restoration and maintenance of public order in the territories not incorporated into the German Reich, who is subordinated directly to him and who is in charge of all branches of the civil administration. Just from this nonmilitary construction of the Government General it must be inferred that a potential Polish resistance would not be broken by means of war [im Wege der Kriegsfuehrung]—which is unthinkable already from the terminological viewpoint if Poland has discontinued to be a State—but under trusteeship sovereignty as a merely internal matter. If troop units of the Wehrmacht were used to crush a resistance, it would not mean to be a war measure but only the auxiliary use of the Wehrmacht as it is provided internally for the suppression of disturbances and similar occurrences anywhere—particularly also in the Altreich*—as a means of emergency.

The aforementioned decision of the Fuehrer also forms the basis for the treatment of Polish prisoners of war. Although they are until their discharge subject to the Convention on Prisoners of War of 1929, those provisions have become inapplicable which have their basis in the existence of a Polish State as a belligerent power, such as the regulations about the rights and duties of the "Protective Power." In the same direction lay already also the communication of the Foreign Office of 20 November 1939 (R 29776) to the Swedish Legation saying that the protective mandate of Sweden was to be regarded as terminated.

It is requested to confirm the aforementioned conception and to notify all Supreme Reich Departments and the Governor General in Krakow and the Reich Protector in Prague for the purpose of avoiding future doubts of the kind indicated in paragraph 1 of this letter. Should there be any misgivings, the High Command of the Wehrmacht asks to participate because, for the reason indicated, it is greatly interested in the decision of the question whether the terms War, Theater of War, etc., may still be applied to the Government General.

The Chief of the High Command of the Wehrmacht
BY ORDER:
Signature

To the Foreign Office for the attention of Legionsrat Dr. Baron von der Heyden-Rynsch.

* Germany within its original boundaries.

PARTIAL TRANSLATION OF DOCUMENT NG–4912
PROSECUTION EXHIBIT 3923

LETTER FROM DEFENDANT KOERNER TO DEFENDANT LAMMERS, WITH A COPY TO DEFENDANT SCHWERIN VON KROSIGK, 17 JUNE 1941, DEALING WITH THE USE OF POLISH ASSETS IN THE INCORPORATED EASTERN TERRITORIES FOR THE BENEFIT OF THE GERMAN NATION AND RELATED MATTERS

Berlin W 8, 17 June 1941
Leipzigerstrasse 3
Telephone No. 12 63 41
12 70 71

The Reich Marshal of the Greater German Reich
Plenipotentiary for the Four Year Plan
V. P. 8226/1

Subject: Treatment of former Polish assets and confiscation of property belonging to enemies of the Reich.

Letter dated 13 April 1941—RK–4866 B—

Due to an oversight at this office, the above mentioned letter was not dealt with at an earlier date. Please accept our apologies for the delay.

I should like to make the following statements on the matter:

The basic idea of all measures for the economic reincorporation of the eastern territories was that, since these territories have been conquered by the sword in the Polish Campaign in 1939 by the whole of our people, the fruits of this victory should be enjoyed by the whole of the German nation. Thus, I immediately ordered at the time that all Polish assets situated in the Incorporated Eastern Territories should be administered in the interest of the Reich. The specific task of putting this step into practice has been entrusted to the Main Trustee Office East.

The Reich Gaue and the Gau self-administrations [Gauselbstverwaltungen] may also be considered in connection with the distribution of Polish assets.

This is a matter of course with regard to administrative assets [Verwaltungsvermoegen]. The procedure concerning Polish public property will be determined, by the ordinance of 15 January 1940—Reich Law Gazette I page 174. This will, in principle, only require an alteration in the land register, in cases of real estate. All requests for allocation of privately owned assets on the part of the administration will be favorably considered. Such applications will be handled in accordance with the ordinance of 17 September 1940—Reich Law Gazette I page 1270. Applications will

be passed on to the Main Trustee Office East through the Ministers concerned—in the Party through the Reich Treasurer.

The frequent requests for productive assets [werbendes Vermoegen] submitted by the Gaue, are to be handled very cautiously. In many cases, no final decision has yet been effected although it is intended to adopt a generous attitude with regard to outfitting the Gaue with certain equipment. But the fundamental idea that the value represented by the captured Polish assets belongs to the German Reich must never be overlooked.

I know of only one general exception, namely that in favor of the city of Gotenhafen, which was ordered by decision of the Fuehrer. But there we are dealing with special conditions, for, when the economic structure of Gdynia [Gotenhafen] was basically changed by the transfer of a wide stretch of valuable land to the Navy, it was evidently intended to assist the town, by a liberal allocation of productive assets, to meet the new demands made upon it. I consider this arrangement as a special exception which cannot be applied to other towns and Gaue.

If, however, one were to agree with the Reich Minister of Finance that the above-mentioned settlement is the only possible solution from a political and economic point of view, then it would seem desirable that the principles concerning the treatment of Polish assets should be extended to other assets captured by the German Wehrmacht and that these assets should benefit the whole of the German people which carries the burdens of war but not individual parts of the country. I am rather concerned to learn from an ordinance of the Chief of Civil Administration in Lower Styria *—copy enclosed—that requisitions are to be made for the benefit of the Reich Gau of Styria. Please take the necessary steps lest the general interests of the German people should be violated. In my opinion, the decisions of the Fuehrer concerning the handling of specific assets belonging to the enemies of the State in the Ostmark, (the Schwarzberger Case) may not be applied to assets acquired during the war.

A copy of this letter has been sent to the Reich Minister of Finance.

As Deputy:
Signed: KOERNER

To the Reich Minister and Chief of the Reich Chancellery
Berlin, Vosstrasse 6
[Handwritten] Z 3222 A 143–V

* Lower Styria, since 1919 part of Yugoslavia; not to be confused with the province of Styria in Austria.

I am sending you [this] copy for your information.

As Deputy:
Signed: KOERNER

[Stamp]
Received 19 June 1941 V.
Reich Ministry of Finance
[Illegible handwriting]
To The Reich Minister of Finance

Certified by
SCHUETZE
Administrative Assistant
[Seal]
Reich Marshal of the Greater German Reich
Plenipotentiary for the Four Year Plan

TRANSLATION OF DOCUMENT 2539-PS
PROSECUTION EXHIBIT 496

DECREE ESTABLISHING A STATE SECRETARIAT FOR SECURITY AFFAIRS IN THE GOVERNMENT GENERAL IN POLAND, 7 MAY 1942, SIGNED BY HITLER AND DEFENDANT LAMMERS, AND PROVIDING THAT IN CASES OF DISAGREEMENT BETWEEN GOVERNOR GENERAL FRANK AND REICH LEADER SS HIMMLER THAT HITLER'S DECISION BE OBTAINED THROUGH DEFENDANT LAMMERS

1942 REICHSGESETZBLATT, PART I, PAGE 293

Fuehrer Decree concerning the Establishment of the State Secretariat for Security Affairs in the Government General, 7 May 1942

I

(1) A State Secretariat for Security Affairs is to be established in the Government General.

(2) The State Secretary for Security Affairs is the Higher SS and Police Leader in the Government General. His official designation is:

"Higher SS and Police Leader in the Government General, State Secretary for Security Affairs."

(3) The jurisdiction of the State Secretary for Security Affairs is to be determined by the Governor General in agreement with the Reichsfuehrer SS and Chief of the German Police.

II

The State Secretary for Security Affairs is at the same time the Deputy of the Reich Leader SS in his capacity as Reich Commissioner for the Strengthening of Germandom.

III

(1) The State Secretary for Security Affairs is subordinated directly to the Governor General.

(2) The representation of the Governor General by the State Secretary for Security Affairs results from my decree of 7 May 1942 (Reich Law Gazette I, p. 294) on the administration in the Government General.

IV

(1) The Reich Leader SS and Chief of the German Police is authorized to give the State Secretary for Security Affairs direct orders in the fields of security and the strengthening of Germandom.

(2) Before execution of directives received from the Reich Leader SS and Chief of the German Police, the State Secretary for Security Affairs will find out if the Governor General is in agreement therewith.

(3) In affairs which affect the general interests of the Reich beyond the Government General, before executing directives of the Governor General, the State Secretary for Security Affairs will find out if the Reich Leader SS and Chief of the German Police is in agreement therewith.

V

In cases of disagreement between the Governor General and the Reich Leader SS and Chief of the German Police, my decision is to be obtained through the Reich Minister and Chief of the Reich Chancellery.

Fuehrer's Headquarters, 7 May 1942

The Fuehrer
ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

PARTIAL TRANSLATION OF DOCUMENT USSR–128 PROSECUTION EXHIBIT 3891

EXTRACTS FROM THE DIARY OF THE GOVERNOR GENERAL OF POLAND, 3 AND 5 AUGUST 1944, AND TELETYPE FROM GOVERNOR OF WARSAW TO THE GOVERNOR GENERAL OF POLAND, 11 OCTOBER 1944, CONCERNING THE UPRISING IN WARSAW AND PLANNED DESTRUCTION OF WARSAW*

I. Extracts from the Diary of the Governor General of Poland, 3 and 5 August 1944

3 August 1944

The Governor General has a telephone conversation with General Guderian at 2110 hours and asks him again urgently for help for the city of Warsaw. General Guderian answers that the Governor General can be assured that everything humanly possible will be done to help Warsaw. Afterwards, however, the verdict against Warsaw will be carried out ruthlessly.

Telephone talk with State Secretary Dr. Buehler at 2200 hours.

General Guderian told him (Dr. Frank) that the Fuehrer has decided that the uprising in Warsaw has to be suppressed with all means possible. The Luftwaffe can only then take active part in it, when it will be clear which districts of the town are in German hands and which districts are occupied by the rebels.

Telephone talk with Governor Dr. Fischer at 2215 hours.

The Governor General informs Governor Dr. Fischer about the contents of the telephone talk with General Guderian.

5 August 1944

The Governor General sends the following telegraphic message to Reich Minister Dr. Lammers: The city of Warsaw is in flames in almost all parts. The burning down of the houses is the best means to prevent the rebels from using them as shelter. After this uprising and its suppression Warsaw will have met or have been subjected to its deserved fate by being completely destroyed.

* Numerous extracts from the 38 volume diary of Hans Frank were introduced as parts of Document USSR–128 in the trial before the International Military Tribunal in which Frank was a defendant. The entire document, in addition to the parts reproduced herein, includes a certificate, 7 December 1945, concerning the document signed by the Polish Deputy Representative on the United Nations War Crimes Commission in London, a short introductory note, and statements of two witnesses, 17 October 1945 and 19 October 1945, describing how the teletype was found. The German text of these extracts is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXIX, pages 356–724. Various parts of these extracts were given various exhibit numbers in the IMT trial.

2. Teletype from the Governor of the District of Warsaw to the Governor General of Poland, Hans Frank, 11 October 1944, stating that SS Lt. General von dem Bach-Zelewski has been assigned the task of razing Warsaw to the ground[1]

Teletype

Signal Office:

Higher SS and Police Leader—East.

To the Governor General Reich Minister Dr. Frank at Krakow.

Warsaw No. 13265, 11 October 1944, 1040—He.

Subject: New policy concerning Poland.

I have to inform you of the following result of the visit of SS Lieutenant General von dem Bach[2] to the Reich Leader SS.

1. General Bor[3] stated that he would cease all political activity for the duration of the war and that he considered himself merely as a prisoner of war.

By reason of this declaration General Bor was not, after all, received by the Reich Leader SS.

2. SS Lieutenant General von dem Bach has been given the new task of pacifying Warsaw—that is, of razing Warsaw to the ground while the war is still on, where military requirements in the way of fortifications place no obstacles in the way. Before leaving, all raw materials, textiles, and furniture should be cleared out of Warsaw. The main task devolves on the civilian administration.

I am informing you of this because this new order of the Fuehrer with regard to the destruction of Warsaw is of the greatest importance for the further new policy with regard to Poland.

Governor of the Warsaw District at present [at] Sochaczew

Signed: DR. FISCHER

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[1] The German text of this teletype is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXXIX, pages 379–380.

[2] Erich von dem Bach-Zelewski was a witness in this case (*see tr. pp. 4278–4305 and 10691–10722*).

[3] Polish general, leader of the Warsaw uprising.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ HALDER BEFORE COMMISSION I*

DIRECT EXAMINATION

DR. KOCH (counsel for defendant Koerner): General, please give the court your personal data.

WITNESS HALDER: My name is Franz Halder. I was born on 30 June 1884. At present I live in Koenigstein am Taunus.

Q. What was your last military rank?

A. My last rank was General.

Q. You were the Chief of the General Staff of the German Army. When did you become Chief?

A. On 1 September 1938.

Q. When did you leave this position?

A. September 24th, 1942.

Q. What was the reason for your leaving?

A. The reason was my opposition to Hitler.

Q. Can you give us in detail what this opposition was based on?

A. My opposition stemmed mainly from my deviating conception of my work. That was the operational leadership. During the Russian campaign Hitler issued orders which I could not approve by any means. In addition to this there was a completely contrary opinion in all basic matters. May I remind you that since I took over my position I was in constant opposition to Hitler, and I only provoked the break with Hitler when I came to the conviction that there was no possibility for me to exercise any influence on him in my position.

Q. What did you do after leaving your position?

A. I retired to Bavaria until July 1944, when I was arrested. After that I was in a concentration camp, sometimes in prison, until the Americans marched in.

Q. What happened after the Americans arrived?

A. I was captured and stayed prisoner until 30 June 1947.

Q. What is your work today? What do you do today?

A. I work for the American Historical Division of the War Department.

Q. Did you participate in the assassination attempt of 20 July?

A. No, not directly.

Q. Did you participate in prior efforts to overthrow the government?

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* Halder's complete testimony is recorded in the mimeographed transcript, 8–9 September 1948, pages 20393–20403 and 20702–20767. Further extracts from his testimony in the Ministries case are reproduced later in section VI H (U.S.S.R.). Halder also appeared as a defense witness in the "High Command Case," (Case 12, Wilhelm von Leeb et al.) volumes X and XI, this series. See testimony index in volume XI for pages on which extracts appear.

A. Yes. Among others I took part in 1938 in efforts to overthrow the government prior to the Munich Agreement. In 1939 and 1940 I took part in the efforts to overthrow the government and prevent the world war.

Q. I have been informed that you said efforts to prevent the war "in the West" was interpreted as "world war".

A. I mean the western campaign.

Q. You spoke of the efforts to overthrow the government which preceded the Munich Conference. Didn't this effort stop in the first stages?

A. No. On the contrary, this attempted overthrow was prepared in all its details under the military leadership of Field Marshal von Witzleben, who was executed after 20 July 1944. Military forces had been prepared to seize the essential Party and Government agencies in Berlin. Moreover, within reach from Berlin whole forces had been readied under General Hoeppner in the collecting points near the Czechoslovakian border. As you know, General Hoeppner was executed after 20 July.

Q. Why wasn't this coup d'état carried out?

A. I had already passed the order to Witzleben for starting the overthrow when the information reached us that Chamberlain and Daladier were coming to Munich and therefore, I had to withdraw my order.

Q. Can you give us some details why it had to be withdrawn?

A. The coup d'état was to be justified before the people by saying that Hitler was provoking a war and that without a violent coup d'état war could not be prevented. Now that wasn't possible any longer.

Q. Did you remain in the service as an active officer after the first world war?

A. Yes, without interruption.

Q. Can you still tell us something about the attitude prevailing in the army until 1933 about the danger coming from the East?

A. The army, as well as the whole German people, certainly realized at that time that the military strength of the surrounding nations was in great disproportion to our own military power. This disproportion gave rise to a potential threat which was underscored by military alliances as the one between France and Czechoslovakia.

Q. What about East Prussia?

A. East Prussia, which was separated from the Reich, was considered constantly endangered by Poland. The phrase "beleaguered fortress" was often used at that time and its accuracy was proven by the fact that Poland had test mobilizations and partial mobilizations and often underscored its military intentions on East Prussia.

Q. Was Germany then weaker than Poland?

A. Yes, considerably so. At that time Germany's armed forces amounted to seven infantry and three cavalry divisions. The Polish Army—I don't remember the exact figure but it comprised about forty divisions of Polish armed forces. In the Polish press, as early as that time and in view of the never-ending friction of these settlement problems [Besiedlungsfrage], there were repeated references that Poland could march to Berlin from Posen [Poznan] at any time, and from the military point of view we had to take that seriously because there was no chance of our preventing them. Perhaps I may remind you that we were not allowed to have any border fortifications.

* * * * * * *

Q. How did the leading military circles judge the rearmament which began in 1934?

A. With the limitations publicized at that time, rearmament was welcomed as creating the most primitive possibility for an actual defense of German soil.

Q. You just spoke of limitations. What were the contents of these limitations?

A. The proclamation of the Reich government at that time particularly emphasized the defensive nature of these measures, limited to twelve corps, each corps to three divisions which amounted to 36 divisions.

Q. How many soldiers would there be in such formations?

A. About five hundred thousand.

Q. And until 1939 did you stay within these limitations or was the army enlarged meanwhile?

A. Essentially the limitations were retained. For unification of the motorized forces, three corps commands were created; after the incorporation of Austria, two Austrian Corps were activated.

Q. How many divisions did Germany have after this had been carried out?

A. I don't remember the exact figure, but it is between 40 and 50, about halfway between 40 and 50.

* * * * * * *

Q. Then it is your judgment that the relation between Germany and Poland was relatively favorable for Germany; in view of these facts did not the military leadership consider an attack by Hitler on Poland possible?

A. Until the spring of 1939 when Hitler ordered, gave express orders, we did not think so, because we couldn't conceive of an isolated war with Poland alone. Our military thoughts connected the Polish question with the western question. Therefore, in case

of a conflict between Germany and Poland, Germany would be faced with a two-front war. However, for this kind of war our forces were not adequate.

Q. In spring of 1939 you just said Hitler issued orders for military preparations against Poland. When did you realize that war would be started with Poland?

A. I realized that with certainty only at the very last moment, 31 August 1939.

Q. Does that apply to you personally; does that also apply to the supreme army leadership?

A. I can answer this question in the following way: This viewpoint also applied to the Commander in Chief, General von Brauchitsch.

Q. How do you know that, Witness?

A. Because we often discussed this question. Just as he did in the Czechoslovak crisis, Hitler stated in the spring of 1939 that he would solve the Polish question during this year, and demanded military preparations to support his political demands. Whether these political measures were actually carried out, there was no certainty, and I may remind you that we witnessed the same thing the year before in the case of Czechoslovakia when a written order was issued that Hitler would solve the Sudetenland crisis in the course of the year by force if necessary. That that did not happen is known of course.

Q. Perhaps you might also mention the two orders to attack and what happened to the first one?

A. The first order for marching against Poland was given on 25 August and was revoked by Hitler a few hours later. Therefore, General von Brauchitsch and I believed that the danger had been overcome. When we replied that the troops should be demobilized, Hitler did not approve but said that he could only give his approval if he knew for sure whether his demands on Poland would be complied with; and the beginning of September he promised to have the troops sent back to garrison.

* * * * * * *

Q. To repeat what I said just now, I would like to return to the situation prevailing before the Polish campaign. You said that when General Brauchitsch approached Hitler he showed opposition to any aggressive plans. Were any special efforts made by the army leadership; do you remember any details which would illustrate this attitude that you described?

A. I remember that General Brauchitsch when he visited Hitler repeatedly told Hitler that a considerable difference existed in their positions. Whenever Hitler talked of Poland he considered Poland as an affair which could be taken care of by itself and

Brauchitsch told him that that was a mistaken conception and that it would lead to an aggressive intervention by the Western Powers, and consequently a world war. That was the only thing that we could hope to impress Hitler with, and that is why Brauchitsch emphasized it over and over again.

Q. Did you talk with Sir Henderson then?

A. Yes. Through a social affair I had occasion to talk about the situation with Sir Henderson, that is to say he agreed with me and he emphasized unequivocally that an armed solution of the Polish question would involve England and, therefore, France.

* * * * * * *

Q. Didn't the start of the war seem to justify Hitler in spite of all the misgivings of the army leadership?

A. Only partially so. The success against Poland was only possible by almost completely baring our western border. If the French had seen the logic of the situation and had used the engagement of the German forces in Poland, they would have been able to cross the Rhine without our being able to prevent it and would have threatened the Ruhr area, which was the most decisive factor for the German conduct of the war.

Q. In your opinion, was Germany adequately prepared for the war started by Hitler, or was it not adequately prepared?

A. Under the premise chosen by Hitler, namely, an isolated campaign against Poland, armament might have seemed sufficient; however, from the point of view of the Army High Command, namely, the involvement of the Western Powers, it was not sufficient.

Q. Generally speaking, was German rearmament complete?

A. Not by any means. Our armament was quite insufficient and quite incomplete.

* * * * * * *

CROSS-EXAMINATION

MR. BARR: Witness, did I understand you correctly yesterday to testify that the rearmament in 1934 was sufficient for the most primitive defense of Germany only and remained basically the same until 1939?

WITNESS HALDER: It is correct that I said that it was just sufficient for the most primitive requirements of the defense of the country. In connection with the figures until 1939, I added expressly that I did not remember the exact figures but that the extent more or less remained the same. Only in connection with motorized units and in connection with the newly created Austrian units was there a change.

Q. Do you hold this to be true also in the economic field?

A. I have no judgment in the economic field because I had no insight.

Q. Thank you. Since you were speaking about rearmament apart from economic participation or preparations, I did not hear you make any statement with regard to the most aggressive weapon of war, the air force. Could you enlighten us about the development of the air force in the years 1934 to 1939?

A. I am very sorry but I can't do that. I am only an army soldier.

Q. You were speaking of insufficient rearmament; I just wanted to find out.

A. That referred only to the rearmament of the army.

Q. But it is true that you could not avoid working with the air force people while working on the preparations for war?

A. Yes, certainly, insofar as these two branches of the armed forces touched and came into contact, we had conversations.

Q. But did you not from this collaboration draw a conclusion as to the increase of armament as far as the German air force was concerned?

A. In order to judge this development it is only necessary to know the figures. One would have to know the various types of armament; one has to know their efficiency. One has to know the balance of power between one's own country and one's neighbor and these are things which I was not able to judge for the air force.

Q. Would you testify that you could not gain the over-all picture of the increased strength of the German air force?

A. I can in terms of a general picture say that the German air force was equal to the Polish air force.

Q. This did not answer my question inasmuch as I asked you whether you gained a picture of the over-all strength of the German air force for the years from 1934 until 1939?

A. I am sorry but I can't give you this comparison.

Q. Thank you. You testified yesterday that your own plot to overthrow Hitler was called off when the Munich Conference was announced because the basis for that plot did not exist anymore. Did I understand you correctly that this basis was an impending war of aggression instigated by Germany which you wanted to prevent?

A. That is correct.

Q. Now tell us, Witness, why was there not another plot, when about one year later an aggressive war actually did take place? Would you enlighten us a little bit about that?

A. The situation changed. The people with whom I cooperated in Berlin in September 1938 and who were troop commanders

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were no longer in Berlin. Witzleben, who had been the head or the mainstay of military operations, had been transferred.

Q. Where had he been transferred to?

A. What?

Q. Where had he been transferred to?

A. He had become troop commander in Kassel.

Q. Do you mean that the distance between Kassel and Berlin prevented another plot to overthrow Hitler to prevent an aggressive war?

A. The question proves that you have no idea what the situation was and how things like that were worked out. These are questions of personal confidence.

Q. Yes or no?

A. That has nothing to do with distance.

Q. That answers my question. Did you have any assurance when the attack on Poland was prepared and actually carried out that the Western Powers would permit this new aggression?

A. I had no assurance, aside from the talk with Sir Henderson that I have mentioned, which told me in very clear terms that Britain and France would participate.

Q. Do I understand you correctly? You were convinced that England and France would interfere in case of an attack on Poland?

A. Yes, I was personally convinced of that.

Q. Now, could you explain to me why, instead of going on plotting to overthrow Hitler, you took a chance anyway and had prepared plans for the invasion of Poland?

A. The military preparations were up to the Commander in Chief of the Army, and the Commander in Chief of the Wehrmacht, and they were ordered to do so; and as such, of course, it was implemented.

Q. And you personally did not see any reason whatsoever not to participate in these preparations, is this correct?

A. I took part in these preparations and at the time I put forth a lot of efforts similar to the year 1938 to find a possibility in order to prevent the carrying out of these plans.

Q. Were you present at the Fuehrer meeting on 14 August 1939?

A. I believe so.

Q. Do you recall that Hitler explained to those present that he was afraid England could interfere and prevent by a last-minute offer the attack on Poland?

A. That is possible. I don't remember.

Q. Please, Witness, you note it in your so-called diary on 14 August 1939.[1] You don't remember it now?

A. I don't remember the actual wording.

Q. But you recall the contents of it?

A. Yes, the contents in general I remember.

Q. And is this correct, what I just asked you, that Hitler was afraid that England could interfere and by a last-minute offer prevent the attack on Poland?

A. Whether Hitler was afraid that that would be so I don't know. That he said it is quite correct.

* * * * * * *

Q. Witness, you testified that on 25 August 1939, Hitler called off the invasion of Poland. Does this mean that you wanted to testify you did not know about the minute preparations which had taken place for this attack on 25 August 1939?

A. I didn't understand the question. I said that on August 25 Hitler revoked the order of 25 August for the march into Poland.

Q. I will repeat my question. Is it correct that you knew about the minute preparations which had taken place for this attack on 25 August 1939 which was called off later on?

A. I knew of the preparations.

Q. Is it not true that in fact you not only were informed on the attack on Poland but also of its aims as early as June 1939?

A. I knew the operational aims.

Q. Do you remember that you received a lengthy communication from Brauchitsch dated 15 June 1939 containing all details concerning "Case White,"[2] that is, the attack on Poland?

A. I cannot remember the details of this.

Q. Do you recall that in this plan for "Case White" the Commander in Chief of the Army stated his aims, and I quote: "Operational aim is the destruction of the Polish Army"?

A. I don't understand the question. Of course it is the aim of every operation to beat the enemy.

Q. And is it not true that under the heading, "Cooperation of

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[1] In his diary under the heading "14 August 1939 (Obersalzberg)," Halder wrote, "Fuehrer is concerned lest Britain hamper showdown by last minute offer." Numerous entries from Halder's diary were used during his cross-examination in the Ministries Case, particularly concerning the invasion of Russia (see the extracts from Halder's testimony in section VI H, below). All 7 volumes of Halder's diary were introduced in evidence in the "High Command Case," (Case 12, Wilhelm von Leeb, et al., vols. X and XI, this series) as Document NOKW–3140, Prosecution Exhibit 1359 (Mimeographed transcript, "High Command Case," 5 March 1948, pp. 1532–1533). Extracts from the diary and extracts from Halder's testimony in the High Command Case appear in volumes X and XI, this series.

[2] Concerning the directives for the invasion of Poland, see the "Case White" directive of the then General, later Field Marshal Keitel of 3 May 1939. This directive is contained in Document C–120, Prosecution Exhibit 143, reproduced in part earlier in this section. The Brauchitsch communication of 15 June 1939, here referred to in the cross-examination, repeated many of the same phrases as the earlier Keitel directive.

the Air Force," von Brauchitsch stated, and I quote: "The air force will, starting on White Day, attack the Polish air force and its ground installations, and destroy it"?

A. That is true.

Q. And is it not true that these detailed preparations, as stated in this memorandum by Brauchitsch, were actually used when the attack took place during the night of 31 August to 1 September 1939?

A. Yes, this is probably correct.

* * * * * * *

REDIRECT EXAMINATION

DR. KOCH: Witness, in cross-examination the question arose as to what you knew of the air force, of its development, and the air force was termed the most offensive weapon. Will you tell us briefly about the natural inter-connection between air power and ground forces and of the nature of the air force in its supposed capacity as the most aggressive weapon?

WITNESS HALDER: The air force is an indispensable part of the fighting forces in a modern war. In order to assert itself, it must beat off the enemy and attain air superiority, and that it can only achieve by attacking. Therefore, an air force, regardless of whether its employment serves offensive or defensive strategical aims, it will always be offensive in its tactical use.

Q. Do I understand you correctly that an air force is needed even in a defensive war, but that even in such a defensive war its employment will be of a tactically offensive character?

A. That is correct.

Q. Therefore, can we draw any conclusions from the organizational set-up of an air force as to whether the planning of a government is directed toward defensive war or a war of aggression?

A. According to my opinion as a military man, one cannot do so.

Q. Can one wage war solely with an air force, even if, as the prosecution seems to assert, its build-up was considerably stronger than that of the other branches of the armed forces. I would like you to base your statement on the comparative data of 1939?

A. No. I don't think the year makes any difference in this connection.

Q. Therefore, even if the fact that the air force was developed more strongly than other branches of German armaments, no conclusions could be drawn from this fact whether this was done for the purposes of an aggressive war or merely as the preparation for a defensive war.

A. That is right, in my opinion. For the rest I'd like to point

out that the air force was built up more rapidly and that is what became noticeable. But that lies in the nature of things.

Q. By that you mean to say that it was developed more rapidly but that in relation to the general rearmament it was not abnormally large?

A. That is exactly what I want to say.

Q. Then, Witness, mention was made of the possibility of starting a similar resistance action in 1939 as had been initiated and cancelled by you in 1938. You gave us a number of reasons as to why the situation had changed completely in 1939. In connection with this can you tell us anything about the domestic political situation?

A. Yes, quite. The success of Hitler at the end of September of 1938 in Munich meant a tremendous set-back for the opposition. The belief that was expressed in the generally known slogan, "The Fuehrer will do it all right," was enormously enhanced in Munich and I remember a number of persons who belonged to our opposition group, who, after Munich, suddenly were shaken in their beliefs and suddenly wondered whether Hitler wasn't right after all. That was the case also in large circles of the population, this impression that I described.

Q. I now come to the Polish campaign. Prosecution counsel quoted the order for the attack—I don't know whether it was the actual order or the basic order concerned—according to which the German air force was to destroy the Polish air force and its ground installations. In response to the question whether this was the content of the order, you answered in the affirmative.

I have an additional question: Did the German air force have any order at the beginning of the Polish campaign to attack the civilian population?

A. That had nothing to do with the civilian population. The main point was that the air force had been ordered by the Armed Forces High Command, as I said before, to immobilize the enemy air force, to look for and attack—to use the technical expression—breeding grounds [Brutstaetten], that is its bases.

Q. Is it correct then that at the beginning of the Polish campaign the German air force had orders restricting it exclusively to attacks on military targets?

A. At any rate, I know of no others.

Q. Do you know whether the German air force attacked any targets other than those it was ordered to attack in the first days of the Polish campaign?

A. I had occasion daily to speak with the chief of the general staff of the air force by telephone. There was never any mention made of anything but military targets.

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TRANSLATION OF KOERNER DOCUMENT 307
KOERNER DEFENSE EXHIBIT 21

AFFIDAVIT OF KURT GRAEBE, 7 MARCH 1948, CONCERNING THE ANTI-GERMAN POLICY OF POLAND AFTER THE FIRST WORLD WAR

I, Kurt Graebe,* Colonel (retired), born on 9 February 1874 at Karniszewo, Gniezno [Gnesen] district, residing at Munich-Pasing, Am alten Friedhof 7, have been duly cautioned that I shall be liable to prosecution if I make a false affidavit. I declare on oath that my testimony is the truth and that it was given to be submitted as evidence to the Military Tribunal at the Palace of Justice in Nuernberg.

After the First World War my homeland, the provinces of Poznan and West Prussia, were ceded to Poland. Not wishing to leave my homeland I left the German Army and settled in my last garrison town, Bromberg. There the German population elected me as their trusted representative. At the inaugural election for the Sejm, the Polish Parliament, in 1922 I was returned as a deputy, remaining a member of the Sejm till 1936 without interruption. I was a member of the Foreign Affairs Committee of the Polish Parliament. To the Military Committee I did not belong, but I was always kept informed of its activities through friendly members. When in 1933 I refused to comply with the instructions of the National Socialist Party, difficulties of such magnitude were put in my way that by the end of 1936 I resigned most of my offices and left Poland in 1937.

Ever since the formation of the Polish State by the nature of things an extraordinary antagonism existed between Poland and Germany, growing worse with every year. This was to be especially ascribed to the severe and partly terrorist attitude of the Poles towards the large German minority that had remained in the Polish State, and on whose behalf a special protection of minorities had been provided for by the Allied Powers. Poland was very much concerned with the formation of an army under the tutelage of a French military mission. In the shortest space of time Poland succeeded in raising a strong army which, under the leadership of Marshal Pilsudski, already by the end of 1920 was able to repulse strong Russian forces who had advanced as far as the River Vistula, thereby bringing the Russo–Polish war to a conclusion favorable to Poland. Subsequently with the help of the Western Powers the Polish Army was modernly equipped and trained according to the experiences of the World War. In

* The affiant Graebe was not called for cross-examination by the prosecution.

contrast to the German Reichswehr it possessed strong field artillery and heavy artillery, armored formations and A.A. guns, which two latter ones did not exist at all in the German Reichswehr while its heavy artillery was extremely restricted. It is clear that the Polish Army was by far superior to the German Army until after 1933, also numerically. It was well-trained and efficient.

It is beyond dispute that from the very beginning Poland pursued an active anti-German policy for it was still not satisfied with the territory ceded by Germany. I know of an official memorandum from that time (i.e., about 1931) of the Polish Foreign Office with the title "Aims of Polish Foreign Policy," which dealt in minute detail with the westward expansion aimed at. This memorandum even then named the Oder-Neisse line as the desirable western border. The only limitation as compared to the present border was that the author of the memorandum, to conciliate the neighbors, was willing to concede, out of the German loot, three districts on the Memel border to Lithuania and Klodzko Valley [Glatzer Kessel] to Czechoslovakia. My colleagues and I, in any case, regarded the contents of this memorandum as an extraordinarily serious threat to Germany and on account of the hostile attitude of the Poles we already at that time expected an armed conflict.

The education of the Polish people bore a distinctly anti-German character and it was common knowledge that the Polish youth were brought up in hatred of Germany. The very weakness of Germany at that time permitted the growth of this chauvinism in Poland for it was hoped to realize their expansionist aims in a cheap way.

Munich, 7 March 1948

[Signed] KURT GRAEBE

EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON WEIZSAECKER[1]

DIRECT EXAMINATION

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DR. BECKER (counsel for defendant von Weizsaecker): But toward the outside how did matters develop now [after the occupation of Czechoslovakia on 15 March 1939]?[2]

DEFENDANT VON WEIZSECKER: The visible effects toward England and France were that both ministers were called for report-

[1] Further extracts from the testimony of defendant von Weizsaecker are reproduced earlier in section VI D (Czechoslovakia) and later in section VI F this volume and in volume XIII, section IX B 3.

[2] The direct examination of von Weizsaecker immediately preceding concerned the German occupation of Czechoslovakia. It is reproduced in section VI D, this volume.

ing to their home countries as you call it. It was a sort of semi-rupture of diplomatic relations with the effect that we faced a new and even more dangerous phase of our foreign policy.

Q. And in the interior?

A. Well, I personally had such an animosity in my relations with Ribbentrop that from that moment on I used only devious means to try and obtain something in the political field. Documents with substantial and basic explanations to Ribbentrop stopped at that point almost completely. Even under normal circumstances diplomatic conversations are only taken down piecemeal but in this particular situation only very, very little was taken down, particularly during conversations with foreign ambassadors where everything that was private or of a discreet nature could not be taken down at all. What I talked about with Attolico, whom I had seen much more often than Henderson even, I almost never took down. Therefore, my own notes show only the most unavoidable and in a language which was understandable for the persons in power in Germany at that time because those people had to be steered around the diplomatic cliffs, and I had to think of those at the time. I didn't live for a court trial at that time. I lived in the struggle for peace.

Q. First of all you had to deal with the Poles at that time?

A. Yes, because the Poles complained in the first place, understandingly, that they were not oriented in time with regards to the protectorate status for Slovakia established by Hitler in cooperation with Ribbentrop, but not the Foreign Office as such. The Poles had a feeling that it would be their turn next; Herr Beck was the Polish Foreign Minister at that time, and of course he had nothing to do with this General Beck I referred to several times. This Polish Foreign Minister Beck therefore, who did not enjoy a very good reputation with the Western Powers otherwise, went to London and there was received with open arms in spite of the fact that already after the Munich Agreement Poland was known as a jackal. This term "jackal" was used on account of the territory which Poland had stolen from Czechoslovakia when the latter was helpless.

Q. You said that Beck went to London now?

A. Yes. He went to London and very soon the Polish-British intimate relationship reached a very strong degree, such a degree that in fact the Polish-German agreement of 1934 thereby had ceased to exist. I don't mean to say that I was surprised. I took it as a fact, but all the same it was a mild criticism if, at the occasion of a visit of the Polish Ambassador Lipski who told me about this London interview, I reacted only with a smile when he said that the German-Polish agreement of 1934, of course, was quite untouched.

Q. Now, what negotiations had taken place with Poland in the summer half of 1939?

A. Well, we had no negotiations at all. From the beginning of April until August 1939, there was practically no negotiation. Our headquarters[1] had monopolized the Polish conversations in their own quarters. Hitler issued instructions to our missions abroad not to initiate any substantial conversations concerning Poland and he himself let the Polish conversations rest completely also. Then he made the speech in the Reichstag on 28 April 1939. The answer to that speech was made by the Polish Foreign Minister Beck on 5 May 1939 and those two public speeches, of course, defined and terminated the German-Polish exchange of ideas which had reached a bad point and Foreign Minister Beck in his speech had raised the question of honor and in politics it's always very dangerous to raise the question of honor.

Q. In other words, in summer 1939 you had practically no contact with Polish affairs?

A. Only indirectly, not directly. At the beginning I had to take a part in collecting the material for the speech which Hitler made on 28 April 1939. To summarize that in one sentence, President Roosevelt had offered his services publicly as an intermediary between the Axis powers and the countries threatened by them.[2] Now, this, of course, infuriated the two dictators and Hitler had inquiries made in the whole world as to who felt threatened in order to collect as many negative answers as possible and to be able to show them, and apart from that he made the countermove against London which had spread out guarantee offers over the whole of Europe. Now, Hitler offered pacts of nonaggression to many states and I had to deal with those pacts also. It was a sort of assembling the political and diplomatic arguments for the case of a conflict. Insofar as pacts of nonaggression were concerned, there were no substantial objections that could be made. However, the British treaties of guarantee according to my conception then, and I still hold that view today, did not diminish the atmospheric pressure of the situation.

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[1] Earlier in his testimony, the defendant had stated with respect to his use of the word "headquarters":

"If I speak of headquarters here, then that is in line with the language I used at that time; because according to my opinion we didn't even have a government at that time, but only headquarters, in spite of the fact that we were in peacetime.

"Q. That was connected also, if I may further clarify the word headquarters, with the fact that at that time Hitler and Ribbentrop were most of the time out of Berlin.

"A. Well, Hitler didn't like Berlin at all and he used every opportunity to go away from Berlin. Most of the time he was in southern Germany.

"Q. And Ribbentrop would go after him afterward?

"A. Well, Ribbentrop used all means to study how he could influence Hitler, and I think that this idea was that he could increase his influence over Hitler by being always geographically close to him." (*Tr. pp. 7730–7731.*)

[2] President Roosevelt's telegram of 15 April 1939 to Hitler, Document NG–1429, Prosecution Exhibit 377, is reproduced earlier in this section.

Q. In other words, you did not welcome these treaties of guarantee?

A. Well, I don't want to express it that way. Let me say that I was not surprised when these treaties were offered or concluded, and I was not surprised that England wanted to make it quite plain and had to make it quite plain that the next aggression by Hitler would mean general war. Only the method here was too noisy for me. It was sort of the same method as used in the Trojan War where you would make nonpoint speeches before you actually entered battle and where you would threaten each other.

Q. But Hitler himself took a part in those speeches also. He concluded then the German-Italian treaty?

A. Yes, that's right. In May 1939 he concluded the so-called Pact of Steel.*

Q. Did you have a part in the conclusion of the Steel Pact and did you welcome this pact?

A. I had no part in the conclusion of the pact. I was not in Milan and I was not at the Lago Maggiore where it was concluded. However, I approved it insofar as in the tandem Mussolini-Hitler, Mussolini was the one who needed peace more and therefore, linking Hitler with Mussolini meant the same thing as putting a brake on Hitler. However, according to my opinion Mussolini made one grave mistake in this connection. His desire was to have 3 or 4 years of peace which was very laudable but he expressed this desire for 3 or 4 years of peace only once the treaty was concluded. At least, he didn't express it in such a manner prior to the treaty, that it was received and that it was contained in the treaty as an integral part because 8 days after the treaty had been signed he wrote a letter to Hitler and sent this letter to Berlin by the services of a general and there only he filed his claim for 3 or 4 years of peace and concerning this matter then later on there were quite a number of disputes within the Axis.

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Q. Before the recess we had last of all mentioned the so-called Pact of Steel. Now were there any other attempts to make pacts during this summer? I am thinking of the Soviet Treaty in particular.

A. Yes. That was in actual fact much more important than the Pact of Steel. The conversations between Hitler and the Soviet Union found their initiative really not on the German side but this rapprochement started with a speech by Stalin in March of 1939. In this speech Stalin dropped a hint that between the Soviet Union and Germany understanding would easily become possible. There was also something said to a similar effect by

* Military and Political Alliance between Germany and Italy, concluded on 22 May 1939.

the Russian Ambassador to me about a month later which was unmistakable and in May 1939 the dismissal of the then Soviet Foreign Commissioner Litvinov was quite unmistakable since at that time he was the representative of the pro-western orientation of the Soviet Union. Hitler admired Stalin to a certain extent.

Q. Perhaps the term pro-western orientation might be easily misunderstood—the power west of the Soviet Union is Germany.

A. Well, I meant orientation towards what we call the Western Powers, France and Britain. Litvinov had for a long time been representative of the Soviet Union in the League of Nations and there he had collaborated intensively with these two states.

Q. How did Hitler react to this friendliness shown in the Stalin speech and toward Litvinov's dismissal?

A. Hitler was not absolutely anti-Stalin. He somehow esteemed him to some extent. At least he respected him. When, from April 1939 on, this guarantee-pact network which we mentioned this morning, was thrown out from London over the whole of Europe, then evidently Hitler first of all in a defensive sense had the idea of breaking through this net by decreasing the latent tension and underlying conflicts with the Soviet Union. I myself at the end of May 1939 had my first sounding out conversation with the Russian chargé d'affaires.

Q. What was your personal attitude?

A. I was happy to be able to make this conversation, or shall we say, I was not displeased. If the rapprochement between Hitler and Stalin had once got under way, then the so-called Lebensraum or living space ideology would have to be dropped. This was the ideology of Herr Rosenberg and this would automatically open the eyes of Hitler and divert his gaze from Russian territory. Such ideas as I mentioned this morning under the title of the confused romanticism of Herr von Ribbentrop would, as a result, have to be dropped.

Q. But did this not just direct Hitler's eyes to Polish territory?

A. Perhaps, but Hitler's desires could not reach out for Polish territory until he had reached agreement with Russia, and as regards the speed of the rapprochement, I thought that the old and deeply rooted distrust of the Russians would guarantee a slow course of negotiations. The vague situation, the efforts of rapprochement between Hitler and Stalin, with no actual rapprochement, were no doubt the best possible thing for peace and a guarantee also seemed to be given by the fact that, as is well known, at the same time the Western Powers, France and England, were also negotiating with Stalin.

Q. Did you hear all that was necessary about these negotiations?

A. We heard quite a lot about it and we were well-informed from London. These negotiations in Moscow dragged on which, as I said, was of service to the unsettled situation. If they had been broken off, the situation would have suddenly become critical because then Hitler might quite suddenly have been thrown into Stalin's arms.

Q. Herr von Weizsaecker, is it correct that you wanted a decrease in the tension between Germany and Russia but you did not want an alliance?

A. There was no question of an alliance to start with. It was, in actual fact, a slackening of the tension of the latent conflicts. The whole business did not start in the political sphere, but a lessening of tension was first of all attempted in economic matters. Only later, as the summer went on, did political questions gradually appear, and the impetus shifted to them to such an extent that finally, on 23 August 1939, we ended up with a definite political treaty.*

Q. At that time, did you undertake anything against the danger you saw in such a definite political treaty?

A. Yes. When matters began to be rather more critical and developed more along political lines, Dr. Erich Kordt, on my personal responsibility, asked his brother in London, who was chargé d'affaires there, again to warn the British against the threatening danger. In this way we learned, in strict confidence of course, from the British Government that they did not want to let Hitler win the race in Moscow for Stalin's favor.

Q. Was the situation at all critical in June? You just said that the situation with the Poles was stagnant.

A. Yes. What Hitler would do was, and remained, unclear, but I heard from my military friends that preparations for war were still going on. But with the widest possible stretch of the imagination, one could really not believe that Hitler would put at stake everything that he had achieved in the last 6 years, at least outwardly, through a war.

Q. You thought that all this shooting off of his mouth was only bluff?

A. I inclined to that view, all the more since a friend of mine had once heard Hitler say, "If anybody bluffs, I will."

Q. So you inclined to the opinion that once again a peaceful solution would be found?

A. I believed that the bluff driven to the last extreme was an exceedingly dangerous bluff on Hitler's part. And in the first half

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* Pact of nonaggression between Germany and the Union of Soviet Socialist Republics concluded on 23 August 1939. Lammer's Document 157, Lammer's Defense Exhibit 108, reproduced earlier in this section.

year, or in the summer of 1939, I was of the opinion that one must see to it that public political discussions are calmed down. Then, inflammable positions would probably also settle down. That was the sense in which I expressed myself at that time within the diplomatic corps and I think that all documents on this subject express that quite clearly.

Q. Didn't you see Hitler at that time?

A. I saw Hitler very little all along but in this summer, that is the time between the end of April and the second half of August 1939, I can't remember having seen Hitler at all, except for an official reception for the Prince Regent Paul of Yugoslavia, in Berlin.

Q. How is that at the beginning of July you suddenly took this situation seriously again?

A. I can't say exactly where I got the warning, but it must have come from military circles, maybe from Halder or Canaris. One thing is certain: In the middle of that summer of 1939 I started to carry the alarm instead of trying to calm things down.

Q. In what sense were you trying to alarm people or alert them?

A. The same as I handled all my work at the time. It was directed in two channels. I wanted a strict control from London over Polish arbitrary acts because the practices of Polish foreign policy had, long before Hitler, been of an undemocratic—I would like to say—Fascist in character. He who has observed the League of Nations negotiations in the twenties will know this. In the Hitler era these Polish practices did not change, whether it was the question of Danzig, or Wilna, or the area of Olsa or whatever it was.

Q. So you think that at this time there was a lack of British control or British advice in Warsaw, regarding Polish policy?

A. Yes, I am most definitely of this opinion. It was contrary to all British traditions that a blank check for aid should be given to a third state and especially a relatively small state. This complete guarantee was different from all normal treaties of this kind, insofar as the *casus faederis* was not determined in London, but in Warsaw. The Polish administrative organs, in particular the lower level organs, the "Woiwods",* felt that as a result of this British guarantee they were covered in everything that they might do. That is one side, about which you asked. And the other side of my activity was again directed towards us. That is towards Hitler and Ribbentrop, in that sense, as I wanted to convince these two gentlemen that the British would, in actual fact, stick

* Reference is apparently to the Polish "Wojewoda," highest governmental official of a Polish Province.

to their Polish guarantee. These two believed, once again, that a German-Polish conflict could be kept local.

Q. So you believed, if I understood you correctly, that it was necessary in Warsaw and Berlin to discourage the people?

A. Yes, although not with the same arguments. In Warsaw it was necessary to quote the threats of the British and the French to the effect that the British would not put up with everything the Poles wanted to do. And in Berlin we had to state that the British and French would support the Poles in whatever they did.

Q. But that's a contradiction.

A. Yes, it is; but only if you made such political utterances publicly. One had to do these things diplomatically and secretly and tell everyone individually.

Q. What did you do in this respect?

A. Well, among other things I talked to the High Commissioner of the League of Nations in Danzig, whom I've already mentioned here, by the name of Herr Burckhardt. He is an outstanding, clever, tactful, and responsible person. I talked to him and he partly on his own accord and partly, I think, inspired by me, warned Hitler about his illusions that he could isolate the conflict. As I said, Hitler and Ribbentrop didn't believe, and did not want to believe, that the Western Powers would go to war in a Polish conflict.

Q. Did you not also call in other men who shared your opinion?

A. Yes. In the diplomatic corps, especially the French and the British Ambassadors—Henderson and Coulondre. I saw them at this time. In contrast to what I did in the spring, or the first half of the summer, I now cried the alarm. I tried to get from both of them such clear statements about their treatment of the Polish Treaty that Hitler would not have been able to bypass this treaty.

Q. Did you succeed?

A. No. That is, I was successful with the British and the French but not with Hitler. But in the case of the two Ambassadors I succeeded without much trouble and there again, I can say that the yellow books and the blue books,* etc., will support this. With Henderson I had a fairly light conversational tone. I was on sufficiently good terms with him to obtain from him the statements I needed. I was not so close to Ambassador Coulondre but he, too, obviously understood me. Later, in a report found in France by our troops, I found that Coulondre reported to his government that the German State Secretary Weizsaecker had understood the business, that he knew that a localized conflict was im-

* Reference is to documents contained in the French Yellow Book and The British Blue Book, namely Prosecution Documents NG 2031, Prosecution Exhibit 169, and NG 2008, Prosecution Exhibit 170, reproduced earlier in this section.

possible, and that he, Weizsaecker, was trying to obtain from Coulondre the requisite statements in order to convince Hitler and his government that they must believe in the logic of the facts.

Q. In this connection, may I draw the attention of the Tribunal to Exhibit 111.*

Now, how did the notes of your conversation affect Hitler?

A. I can't say. I don't know whether and in what form Ribbentrop submitted my reports or notes to Hitler. At any rate, I learned in the second half of July, with satisfaction, that Hitler had again gone doubtful about his plans.

Q. And in his decisions, too?

A. That was more difficult to establish. There was, at any rate, one affair which could lead on to the opposite view—I mean the so-called naval visit in Danzig. Hitler had the peculiar idea—I think it was the end of July or the begining of August—of organizing a big German naval inspection at Danzig, which was in itself very notable and had to have a very notable effect. And he omitted the one thing that was absolutely necessary for this action, namely, to obtain permission for this naval inspection, in the formal way, from the Danzig Senate, via Warsaw. This would, therefore, have been an open provocation if it had come off.

Q. Could you do anything against it?

A. Hitler, Ribbentrop, and the navy were against me. At that time, in writing and verbally, I issued warnings. First, Ribbentrop agreed; then I had no more help from him. Finally I applied the often successful trick of calling in the Italians to act as a warner. And the inspection, in fact, did not come off in the end, but I can't say who of the people concerned first saw the light of reason.

Q. The Italians at that time were still acting as a brake?

A. Well, at least there was no better one. The relationship between Hitler and Mussolini had, at that time, already passed the culminating point. If I may say so, the German-Italian relationship turned from a loving courtship into a marriage *de convenance*. But Attolico and I agreed that in this critical situation a meeting of the two gentlemen must again be arranged, and that is what we were working for. Attolico was working for it in Rome.

Q. Did the meeting come off?

A. No, it didn't. Mussolini was, at that time, suffering from a peculiar state of apathy. He was sick of appearing before Hitler to warn him. Instead of coming himself, he sent his son-in-law, Ciano. Even before Ciano came, a conference of major pow-

* Reference is to Weizsaecker Document 211, Weizsaecker Exhibit 111; report from Coulandre to Paris, 17 August 1939, concerning his and Henderson's conversations with von Weizsaecker on 15 August 1939, not reproduced herein.

ers or at least the idea of a conference of major powers had been started in Italy, to regulate, first, the Polish question and also other problems. This idea of a conference of major powers was not thought very highly of at our headquarters and it was turned down. Instead, Ciano arrived and he came with peaceful instructions.

Q. Were you present at this conference?

A. No, I was not. As usual, I was kept away but I heard of what happened. To the most lively regret of Attolico and me, Ciano failed. First of all, he was quite good. He fulfilled instructions in respect to working for peace but when he noticed that Hitler was steering towards war, then he gave way a little, in the peculiar and mistaken belief that whatever happened to Germany need not affect Italy. He obviously thought that Italy could remain unaffected by a European conflagration. The outcome, at any rate, was that this lesson which was really intended for Hitler failed.

Q. In what way was there tension between Germany and Poland? Now, were their diplomatic negotiations between the two countries?

A. No. There were no negotiations but that was just the bad thing. But, in fact, there were rumors in all the passages—considerable rumors. I have already mentioned the Polish excesses and breaches of contract, which had for years remained to be settled between Germany and Poland. For instance, I myself was a witness of the now-famous "blow on the table at Lugano" by Stresemann*, who was otherwise a peace-loving man. I had also been present at Madrid at a meeting of the Council of the League of Nations, when Stresemann tried to get the whole minority problem, just because of the political treatment of them, to put this whole problem on quite a new basis. And after the agreement of 1934, instead of the Polish practices now improving, they unfortunately did not improve; but rather they deteriorated to a dangerous extent. There really was an absolutely chaotic state of political customs and what happened, for instance, in Danzig was usually beyond the control of the Foreign Office. Hitler did not give his instructions in such matters for the Foreign Office. Once, in August 1939, I had to appear in order to read out a note verbale which had been cooked up in our headquarters, a note verbale to the Polish chargé d'affaires in Berlin, in the so-called quarrel of the customs inspectors. This note verbale was very sharp in its wording and by way of a warning against even greater disaster; and Polish reaction, the Warsaw reply was very alarming. It again contained a very dangerous wording, for it

* Gustav Stresemann was Foreign Minister of Germany, 1923–29.

said that Poland, with regard to every future German intervention in Danzig, would regard such an act of aggression to Poland's disadvantage. And even so moderate an observer of the Polish attitude as the French Ambassador [to Poland] Leon Noel called this act of the Polish Government an *inopportuni*.

Q. With reference to this incident, may I refer to Document Weizsaecker 235, Weizsaecker 98?

How did Hitler react to this Warsaw reply?

A. He didn't react at all. That was the dangerous thing—that he didn't react. This was no concrete subject of negotiations and a diplomatic threat could not help, because—

JUDGE MAGUIRE, PRESIDING: I did not get the question.

DR. BECKER: I beg your pardon?

JUDGE MAGUIRE, PRESIDING: I did not get the question.

DR. BECKER: I'll repeat the question.

How did Hitler react to this Warsaw reply?

JUDGE MAGUIRE, PRESIDING: Oh, all right, go ahead.

DR. BECKER: You had better repeat the answer from the beginning.

DEFENDANT VON WEIZSAECKER: Very well. He did not react at all and that is what I considered dangerous, that he did not react; and I considered it dangerous that there was no concrete subject of quarrel about which we could have negotiated. The matter did not hinge on this new customs inspection in Danzig at that time. It did not even hinge on Danzig itself but the center of gravity of the whole situation had long since passed on to the [Polish] Corridor, because there, under the thunder cloud of war—if I may say so—the German Poles, that is the German minority in Poland, had already started to move, partly forced to move towards the interior of Poland and partly towards Germany, across the frontier. And this stream was impossible to dam. One can say perhaps, after the events, that in this situation peace between Poland and Germany had already been lost or thrown away.

Q. Did you in your way try to work for peace, even in this situation, didn't you?

A. Yes, of course. In such a situation one does not give up one's diplomatic efforts, especially when it looks as dangerous as it did then. I even used pretty drastic measures. I refer to the conversations I had in the middle of August—I think both were on 15 August 1939—with the French Ambassador Coulondre and the British Ambassador Henderson. M. Coulondre reported correctly and in accordance with my wishes to Paris that, first of all, France must be firm towards Hitler, second, France must warn Warsaw to be moderate. My conversation with Henderson on the same day was even more effective.

933764O—51——72

Q. To what extent?

A. My impression in the conversation with Henderson—and I also had gathered this from other sources—was that the British Government at this time was far too trusting, and I am no longer surprised at it now, since I read what the British Ambassador in Warsaw reported at that time. He was a friend of mine, but even so, I must criticize his reports. The result was that Chamberlain wrote a letter to Hitler, a letter dated 22 August 1939.* This letter contains three main points, entirely in accordance with my ideas:

First, that England would be loyal to her Polish treaty.

Second, that England was prepared for more general and wider understanding between England and Germany.

Third, that England was prepared to mediate between Berlin and Warsaw.

Q. Did you have anything to do with this letter? Did you have any connection with it?

A. Yes, to the extent that when this letter arrived Ribbentrop was just flying to Moscow. Nevile Henderson had been told to give the letter to Hitler personally. Henderson asked for an audience with Hitler. Hitler was in southern Germany, at the Berghof, and he didn't know whether, in Ribbentrop's absence, he should receive Henderson or not. And then something happened that had never happened to me before. Hitler called me up—that was the first and the last time I had the honor—and asked me whether he must receive this Ambassador. I said that the position of the Ambassador and the situation absolutely demanded that he receive him, even in Ribbentrop's absence. And so he decided, with the result that the next morning, on 23 August 1939, Henderson and I flew to Salzburg together.

I won't enlarge on the audience Henderson and I had there, because it can all be read in the blue books and the yellow books, it is all known. By and large, the audience was useless. However, I would like to say that this meeting gave me a long-desired opportunity to talk to Hitler for once, in Ribbentrop's absence.

Q. What did you tell him on this occasion?

A. There were two or three conversations within 24 hours. Hitler thought it possible that the Poles would give way and I advised him to seize any such opportunity which might occur. He was not quite sure what Mussolini would do if a conflict should come about. I told him Mussolini would not march and I gave him the reasons, in spite of the "Steel Pact," because I had already heard them from the councillor to the Italian Embassy, the brother-in-law of Ciano, Magistrati by name. These reasons were

* Document NG–3615, Prosecution Exhibit 175, reproduced earlier in this section.

very similar to those of the Italian comments in 1914, when the First World War broke out. At that time, if I may state this briefly, at the beginning of the First World War, there was a tripartite pact between Germany, Italy, and Austria and at that time Italy withdrew from her treaty obligations with the remark that she had not been consulted in the preliminary negotiations with reference to the war, and therefore her obligations were no longer binding.

Then, in the evening, when Henderson had again gone, I remained in Salzburg. Hitler thought that the British Cabinet would collapse the same evening, on the basis of the report which Henderson would make about the conversation at the Berghof. I told Hitler that this was an illusion, that Chamberlain would, on the contrary, have the whole House of Commons behind him if he made an appeal to help Poland. And, in conclusion, I told Hitler once again that if there was a war my functions would be senseless and would he please discharge me so that I could join the Navy.

That was approximately the course of this Henderson visit.

Q. What did Hitler say to your opposition?

A. Strangely enough, he was not offended. At least, I didn't notice it and I could really believe that I had convinced him. However, it is not uninteresting in this connection to imagine how Hitler's decisions actually came about. I can describe it quite briefly. On 22 August, the day before my conversation, there had been a meeting of generals at Berghof. I only found out much later what they talked about. However, on that day he told the generals that he would take on the Western Powers again; he didn't mind. On the 23d he told me he didn't like the idea of a conflict with the Western Powers. On the 25th, at noon, he issued the orders for the march on Poland. The orders had already been scattered in all directions. On the 25th, in the evening, he withdrew this order. Why? Because he was afraid the Western Powers would intervene, because on that day Great Britain had concluded a definite alliance with Poland, and we had heard about it. On 31 August the Western Powers were again a matter of indifference to Hitler. On 3 September, when the Anglo-French declaration of war was made, Hitler and his expert, Ribbentrop, were again surprised that the Western Powers should join in the war and both, according to the description of witnesses, were quite beyond themselves and didn't quite know what to do when they heard about it.

Q. Why are you telling us this?

A. I am telling it because it proves that these theoretical historians, who think that the civil servants and the bankers and

industrialists and officers were following Hitler on a clear way towards war, are a little too clever. Hitler was not logical. He would pull his ideas out of the air, just like that, just as the moment inspired him.

* * * * * * *

Q. Prosecution Exhibit 143[1] contains the military operations plan against Poland. This exhibit deals with a Hitler conference held at the end of May 1939 with the circle of his closest military collaborators. Were you familiar with these events?

A. No. They were not known to me, because such military directives, if possible at all, dealt with even more confidential matters than political directives. But even without having knowledge of these reports, I had a deep distrust of what Hitler was aiming at and what would come.

* * * * * * *

Q. The next matter, Exhibit 377,[2] deals with the appeal of President Roosevelt in April 1939, addressed to Adolf Hitler. At the time Roosevelt had requested that Hitler should promise not to attack a large number of states; and Ribbentrop's reaction was to obtain information from the countries which Roosevelt thought threatened; with regard to the question of whether they felt threatened by Germany. And the other question was whether they had commissioned President Roosevelt to appeal to Germany. What is your judgment on these two steps?

A. As far as psychological viewpoints are concerned, President Roosevelt's action had not been timed very well. It openly exposed the two partners in the Axis as potential aggressors. Both partners, in advance, should give promises before the other contractors were being asked at all. And the whole thing, through the good services of the United States of America, those United States which already, 6 months before, had recalled its Ambassador from Berlin. Of necessity this drive was bound to infuriate Hitler; everybody could have known that who knew Hitler and the world he was living in at the time. The appeal was extremely unsuitable to create a peaceful atmosphere, as far as Hitler was concerned. For the rest, the fundamental diplomatic principles had not been complied with, namely, that before this public appeal was made, the states involved were asked about the matter. It was not found out what their reaction would be. Now, the reaction, as can be seen in the request made by Ribbentrop to the threatened countries, was nothing but what could be expected. The whole matter was not very enjoyable and it defi-

[1] Document C–120, reproduced in part earlier in this section.
[2] Document NG–1429, reproduced earlier in this section.

nitely was not fit to improve the general situation. For the rest, my participation in the matter was only complementary, and that of a registrar; and I only complied with very definite orders in this matter.

JUDGE MAGUIRE, PRESIDING: In this respect, Witness, in view of Hitler—what now at least transpired to his plans and aims—can you suggest any means which might have been used by the United States or any other country to have changed them or to have avoided war?

DEFENDANT VON WEIZSAECKER: Your Honor, my definite suggestion, or at least I would have preferred it definitely, if at that particular time attempts to influence Hitler had been made through the discreet channels of diplomacy and not through the channels of open reprimand or appeals. That was my own opinion already in the summer of 1939 and I expressed it also during conversations, and particularly I expressed it to the British Ambassador, because during that summer even the British Government, according to my own opinion, made the mistake of using public manifestations or warnings in order to try to influence Hitler. As far as the final effects of a diplomatic action in this sense are concerned, of course there can be a difference of opinion; but if it had been necessary to try it, and if one wanted to try it, then I still think that the best way would have been through discreet diplomatic channels.

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Q. That brings us to Exhibit 160,* which is in document book A-B of the Prosecution. In this Exhibit 160, reference is made to a question as to whether or not the guns in Danzig should be shown.

A. I was approached with that question. I was faced with a *fait accompli,* namely, that the guns were on the spot. Now, according to my view, to show these guns openly in Danzig would have seemed to be even a greater provocation, and that had to be prevented. I must add, however, that I wasn't very much surprised to see that the German military authorities had transported such weapons to Danzig because, on their part, the Poles had concentrated troops around Danzig, as Lipski even admitted during the conversation in April, about which I have already talked to you a while ago.

Q. Your attitude towards this question was communicated to one of your collaborators in the Foreign Office, Herr von Nostitz. Why did you express your attitude to Herr von Nostitz, and why did you give the reasons you gave in the document?

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* Document NG–2029, reproduced earlier in this section.

A. Herr von Nostitz was a man who was in my confidence, and I might not even have had to give him an explanation. However, I wanted him to express this matter in quite a definite way towards the military circles and therefore I gave him precise instructions as to what he was to say.

* * * * * * *

Q. Now, why in Exhibits 175[1] and 176,[2] does Herr Veesenmayer report to you indicating your name? Surely this again might give rise to the opinion that you had been the main person issuing the directives and orders.

A. Well, there is a very simple explanation to give for this. At that period of time Herr von Ribbentrop was on the way to Moscow for the purpose of conducting negotiations there and thus Veesenmayer had no other means than to report to the Foreign Office and to indicate my name, because telegrams with a certain qualification of secrecy were addressed to the Reich Foreign Minister or to the Reich Foreign Minister and State Secretary or to the State Secretary; and in view of the fact that the Minister was absent, my name is shown. Furthermore, if you will please permit me to add this, I want to say that these two exhibits clearly show, one, that the plan mentioned therein was a plan of Forster and was not a plan emanating from the Foreign Office, and two, that this plan of provocation had been devised personally and in direct contact with Hitler by Forster at the Berghof, whereas it was only afterwards through our channels that by Herr Veesenmayer the Foreign Office was informed, and three, this clearly shows that the focal and crucial point of the whole plan was a piece of imagination on the part of Forster and never became practical policy. This entire problem of Danzig throughout those days of crisis, as I said before, remained in the background of the actual policy being conducted. The incidents were decided in Moscow or on the Berghof, in London, in Warsaw, and not in Danzig. Herr Forster, of course, who very much liked to exaggerate his importance, would have liked it to be in Danzig. Now, to take this exhibit seriously as it is done in the case of this document book,[3] shows that this was undertaken by a man with no expert knowledge of the policy of that day.

Q. You, yourself, therefore, during those days when all these Danzig custom guard conflicts and the Veesenmayer telegrams were the topic of the day, you did not mainly deal with these problems, did you?

[1] Document NG–3615, *ibid.*

[2] Document NG–1993, *ibid.*

[3] In the index to the document book containing the translation of the documents in question (document book 4–B), the prosecution described the telegram of 22 August 1939 from defendant Veesenmayer to defendant von Weizsaecker as "outlining a *five-point plan designed to provoke war with Poland.*"

A. No. Absolutely not. Perhaps I might say what was discussed the day before between the British Ambassador and myself. I undertook a somewhat unusual course at that time. I had known that course from the year before. What I did was to point out to the British Ambassador, or let me say, we concurred that a British general should be sent to Hitler and a general who would talk to Hitler in Ribbentrop's absence; and this general was to make it emphatically clear to Hitler that any armed measures against Poland would simultaneously mean a war with Britain; and make it clear to him that the German chances in the case of such armed conflict would be most unfavorable.

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CROSS-EXAMINATION

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MR. CAMING: You personally, did not fear any attack from England, France, or Poland in April 1939, two weeks after the fall of Czechoslovakia, did you?

DEFENDANT VON WEIZSAECKER: I had the impression that the Hacha Crisis, if you want to call it such, had just by a hair diverted the war. I concluded that from various indications, particularly from the attitude of the British Prime Minister.

JUDGE MAGUIRE: Would you answer the question, Witness?

DEFENDANT VON WEIZSAECKER: Then could I have the question once more?

JUDGE MAGUIRE: The question was whether or not, after the closing of the Czech problem by the breaking up of Czechoslovakia, whether you, personally, had any apprehension that either France, England, or Poland, was going to declare war on Germany?

A. I feared that the Hacha Crisis might lead to a rupture in relations. I told you yesterday what I did in order to avoid this happening. I did have such an anxiety, yes.

MR. CAMING: Hitler—I will withdraw that word. Now when this assurance was given, Baron, by the British Government, there was some basis for it, as a result of the Czech question, don't you agree with that,—some basis for the English extending this guarantee to Poland after the action in Czechoslovakia had taken place? Do you agree to that?

A. I was of the opinion that the British Government certainly must have good reason to grant stronger support to the Poles than they had up to this time; but I was still astonished about this text* because it went much farther than was in keeping with the British political tradition.

* Reference is to NG-5609-A, Prosecution Exhibit 3545 reproduced above.

Q. At least this assurance was justified by the foreign political situation at the moment, was it not?

A. I had not expected this type of a guarantee. I was astonished about it at the time; but I again revert to interpreting the text here but since you ask me, I confirm that this was my opinion.

Q. If I understand you correctly, from your last statement, your opinion was that this assurance was by no means justified by the foreign political situation in April 1939, is that correct?

A. I did not say that, either. If you followed my words, then I said that I was certainly of an opinion that it was to be expected that the British Government would grant stronger support to the Poles than they had up to that time; but I said this text seemed to go far beyond what was normally to be expected from them.

Q. You remember that Hitler made a speech, after the British guarantee, describing this as a British attempt at encirclement of Germany. I believe you so mentioned in your direct testimony and I might refer you to [section] 282* in the German White Book at this time, to refresh your recollection—the telegram you sent to the Ambassador at Warsaw.

A. I should like to read it, please.

MR. CAMING: I believe, Your Honor, 282 was distributed to you?

JUDGE POWERS, PRESIDING: Yes, we have it.

MR. CAMING: Thank you, Your Honor.

DEFENDANT VON WEIZSEACKER: I have finished reading it now.

Q. I am certain you meant that when Hitler's last speech expressed "our attitude" of British attempts at encirclement, you meant the German attitude, not your personal attitude, isn't that correct? That was the attitude of Ribbentrop and Hitler?

A. This telegram seems to be a circumscription of the preceding Hitler speech of 2 days previous to the date of this telegram, and was certainly in keeping with the instructions of Ribbentrop. But you have used an expression that might be misleading. This was not only a guarantee that Chamberlain had given to the Poles on 31 March 1939 but around that time a larger British undertaking was being made—an offer of the British Government to a whole number of European states. I wanted to mention that only for clarification.

Q. You still have not answered my question. When you stated Hitler's last speech expressed "our attitude of British attempts at encirclement," by "our attitude" did you mean your own, or did you mean the German attitude of Hitler and Ribbentrop?

A. Hitler's attitude.

* This refers to Document NG–5609–B, Prosecution Exhibit 3546–A, reproduced earlier in this section.

Q. Turning aside from that for a moment, Baron, if you will kindly, do you recall that at the end of April Henderson came to see you—the British Ambassador—and discussed the very question of these guarantees? Do you remember that?

A. You are again forcing me to give you the same answer that I have been making for quite some time now. I remember many conversations with Henderson but I do not know whether he came to see me at the end of April.

Q. Do you remember a conversation with Henderson where he stated to you that England had no aggressive intentions and was not trying to encircle Germany, that this was a defensive policy and not aggressive in nature? Do you remember that conversation of Henderson's?

A. It may be, but you could assist me greatly if you would submit that document to me.

Q. Will you kindly turn in the German White Book to section 293—the wrong number was translated, I believe, or you did not hear me—293.

MR. CAMING: Your Honor, I believe we can mark both of those, since they are both on the same sheet, with the same number.

JUDGE POWERS, PRESIDING: Well, there are three of them here. Do you want all marked as one exhibit?

MR. CAMING: Yes, Your Honor, if you will, please.

JUDGE POWERS, PRESIDING: Sections No. 282, 293, and 298.*

MR. CAMING: Thank you, Your Honor.

JUDGE POWERS, PRESIDING: Well, they will be marked for identification as 3546.

MR. CAMING: Yes, Your Honor.

DEFENDANT VON WEIZSAECKER: Yes, I have finished reading it now.

Q. Now, when you received Henderson on 26 April and he handed you this communication, was your reply in accordance with instructions you had received from Ribbentrop, or were you acting on your own initiative in this instance?

A. Essentially I probably spoke in the sense of Ribbentrop's instructions; but in this note I see again, between the lines, the interpretation which I attached previously to the Chamberlain assurance of 31 March, namely, that it went much farther than was the practice of the British Government as a rule. I was worried that the British-Polish document might indeed support the subordinate, unquiet elements in Poland, and encourage them to excesses and in that respect that document expresses my unrest, too.

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* Documents NG–5609–B, C, and D, Prosecution Exhibits 3546–A, B, and C reproduced earlier in this section.

Q. Now you have to remember this is April 1939. The particular portion—"The British Guarantee to Poland was certainly the means most calculated to encourage Polish subordinate authorities in their suppression of Germans there"—that, of course, was Ribbentrop's language, wasn't it?

A. I always used language in my notes which Ribbentrop would understand. All of the documents that you have, or will submit to me, contain Ribbentrop's and Hitler's language. They are not my ideology and not what I felt, desired, or thought. They are not my style of writing.

Q. Subsequently, if you will turn to 298, on 8 May 1939 you saw Coulondre, the French Ambassador. Will you kindly read that?

A. (After reading) I have finished reading.

Q. You had testified, on direct examination, that the period before July and August 1939 did not alarm you and that in that interim period there was very little mention of the Polish question. Is that not correct?

A. No. That is not quite correct. I said that the way I treated these Polish questions in that summer differed and fell into two separate segments, clearly separate from each other, and the break was approximately in the middle of the summer. In the first segment I tried to calm everything because I considered this to be most promising; in the second half I tried to alarm people because I considered that the better method of serving the overall aim, namely, the preservation of peace.

Q. Well, let us leave this for a minute. At this time wasn't it Ribbentrop's line of policy that the entire blame should be put upon the Poles, in order to split the Allies away from the support they had extended to her at the end of March 1939 in their assurances?

A. I do not believe that is quite properly expressed. Hitler and Ribbentrop generally were not familiar with the concept of pushing guilt on somebody else. Both of them had a certain aim and they went straight after it, come what may. And you can see that from the fact, too, that Hitler and Ribbentrop did not believe, during the entire summer of 1939, that England and France would really actively become interested in the German-Polish conflict.

JUDGE MAGUIRE: May I ask a question here? If that is a fact, then any attempts which were made to split France and England from supporting Poland, were not plans made by Hitler or Ribbentrop but by someone else? Is that correct?

A. I am not quite sure that I understood the question.

Q. I will repeat it. As I understood you to say, Hitler and

Ribbentrop were not interested in getting excuses so that they could split support to Poland but they went about their desires directly, without reference to that. Am I correct in that understanding?

A. I would put it this way. Both of them worried very little about the actual question of guilt because from the very beginning they did not believe that the Western Powers would stop Hitler in the case of a German-Polish collision. They indeed were not interested in the attitude of the Western Powers to such an extent, because it was always Ribbentrop's theory that both of these Powers would leave their friend in the lurch anyhow.

JUDGE MAGUIRE: And that being so, any attempt to put the blame on Poland was not their program but the program of someone else, is that correct?

A. I consider it possible that Ribbentrop and Hitler, too, wanted to appear to the outside world as the innocent ones, and particularly towards the German public.

JUDGE MAGUIRE: But of course everything is possible, Witness. What I am interested in is your knowledge of whether that was part of their plan or whether that was the idea of someone else besides those two?

A. No. It is correct and I am just remembering this now, that the press wrote articles very much along those lines and that they were written at the instigation and inspiration of Hitler. That is correct.

JUDGE MAGUIRE: All right.

MR. CAMING: Baron, if I may follow up the learned judge's question; in this last interview with Coulondre, you stated that the British guarantee to Poland was like offering sugar to an untrained child before it had learned to listen to reason. My question—That was generally the same theme being used by the Goebbels agencies at the same time, was it not?

DEFENDANT VON WEIZSAECKER: It may be that Goebbels expressed himself in the same manner but in order to define this a little more closely I want to come back once more to 31 March 1939. The statement of the British Government of that time I understood, and still understand today, to the effect that the decision about "*Casus foederis*" had been transmitted from London to Prague. The way this promise was formulated, London no longer held the control over this matter but had obligated itself to comply with a Polish preliminary decision.

DR. BECKER: May I correct an error in translation? It was London to Warsaw—not London to Prague.

DEFENDANT VON WEIZSAECKER: It was my mistake.

DR. BECKER: And one more thing that I want to clear up. Was the word *Casus foederis* properly translated?

JUDGE MAGUIRE: It wasn't translated at all.

DEFENDANT VON WEIZSAECKER: But that is the point in question. Perhaps I might explain it without using the Latin quotation. *Casus foederis* is the decision about the question as to whether an obligation for an alliance was to be in effect or not; whether an obligation for an alliance was to be put into practice, whether England would be forced to march, or not.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT LAMMERS[1]

DIRECT EXAMINATION

* * * * * * *

DR. SEIDL (counsel for defendant Lammers): * * * You testified, Witness, as far as the planning of the enterprise directed against Czechoslovakia was concerned, that you took no part. Therefore we may now turn to those documents which refer to the war against Poland. The first document of this type is Document 1365–PS, introduced as Prosecution Exhibit 487,[2] contained in Prosecution Document Book 35, page 106 of the English, which corresponds to page 126 of the German. This is a letter written by a certain Schickedanz, addressed to you, dated 15 June 1939, containing a list of eastern European problems. In order to render this examination more expeditious, we may combine our examination of this document with that of Document NG–2493, which is Exhibit 494[3] of the Prosecution, to be found on page 124 of the English document book, corresponding to page 156 of the German. Furthermore, we may combine our discussion to include Document NG–1442, introduced as Prosecution Exhibit 498,[4] to be found on page 134 of the English document book, corresponding to page 172 of the German. These are letters sent by you to the aforementioned Schickedanz, dated 21 December 1939 and 31 May 1940. First of all, I have to ask you to be good enough to give a brief description to the Tribunal concerning the Schickedanz case, simultaneously pointing out the Foreign Political Office of the NSDAP, and also describing your own relationship to that office. What were your official contacts with Schickedanz and the Foreign Political Office of the NSDAP respectively?

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[1] Further extracts from the testimony of defendant Lammers are reproduced earlier in section VI D (Czechoslovakia) and later in sections VI F, VI H, this volume and in volume XIII, sections IX B 3 and XI C 2.

[2] Reproduced earlier in this section.

[3] *Ibid.*

[4] *Ibid.*

DEFENDANT LAMMERS: Schickedanz was Chief of Staff of the Foreign Political Office, of which Rosenberg was in charge. Under the aspect of constitutional law and under organizational aspects, this Foreign Political Office was at all times a very inconvenient and disagreeable competitor in our relationship to the Foreign Office and, as a result, very frequently this office was in serious opposition to the Foreign Office. As a result of the parallel work and occasional counteraction between these two agencies, of sheer necessity there arose friction and tension, with which I always had to concern myself. These difficulties arose first of all already at a time when Freiherr von Neurath was Foreign Minister. He frequently complained to me on that score. But such difficulties were also existent when Herr von Ribbentrop was Foreign Minister, despite the fact that the latter was able, as a result of his closer relationship with the Fuehrer, to push the Foreign Political Office into the background to a certain extent. Still the Fuehrer insisted on maintaining the view that the Foreign Political Office was to remain in existence. As a result I, of course, was occasionally obliged to take in memoranda and reports and other documents which were received in behalf of the Fuehrer, in the event that the Foreign Political Office chose that channel. As such, I exercised the greatest restraint possible because, after all the Foreign Political Office was a Party agency; and they might have chosen the channel via the Deputy of the Fuehrer [Hess] or via Reichsleiter Bormann; but in view of the fact that on several occasions the Fuehrer had ordered me to receive data from Rosenberg this, of course, belonged to my official duties. The result of this was that the chief of staff of Rosenberg, Herr Schickedanz, occasionally turned in to me reports which were destined for the Fuehrer.

DR. SEIDL: Do you consider this report* to be a preparation leading up to a war with Poland and were you capable of drawing such a conclusion?

DEFENDANT LAMMERS: Now, more than 9 years have passed since that event and in view of that I don't recollect the exact contents of any such reports. Therefore, of course, it isn't possible for me to say, at this state, what my reaction or interpretation of this report may have been at the time I received it, if I ever did, but in any case I don't attempt to deny that I do remember that, as far as I was concerned, occasionally Schickedanz reported orally or in writing on what his thoughts were in connection with any possible future militant implications with Poland, but neither did I consider these elaborations to be a preparation of war against Poland, nor, much less, was I in a

* Reference is to Schickedanz's "Plan for the East" contained in Document 1365-PS, Prosecution Exhibit 487, reproduced above.

position to assume that Schickedanz was involved in the planning of aggressive warfare. Even today, after having read the memorandum which is the subject matter of the prosecution's charge, even today all I can gather from it is that Schickedanz entertained certain thoughts that might arise in the event that war would break out against Poland; but in no case did he contemplate any ideas of a war of aggression. Of course, it's necessary to interpret this memorandum in the light of the day when it was written which is a very hard thing to do once you are acquainted with the subsequent events.

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Q. Witness, I will now pass over to eight documents all of which, for the sake of simplification of this proceedings, we will discuss jointly. I am going to refer to the following documents:

First of all, Document 3560–PS, introduced as Prosecution Exhibit 490,[1] document book 35 of the prosecution, page 116 of the English, equal to 147 of the German.

2. Document NG–3200, Prosecution Exhibit 492,[2] page 122 of the English, equal to 154 of the German.

3. Document NG–3202, Exhibit 493,[3] page 123 of the English, equal to 155 of the German.

4. Document NG–4106, Prosecution Exhibit 495,[4] page 125 of the English, equal to 159 of the German.

5. Document 2537–PS, Prosecution Exhibit 491,[5] page 120 of the English, equal to 151 of the German.

6. Document 2539–PS, Exhibit 496,[6] page 126 of the English, equal to 160 of the German.

7. Document NG–3217, Exhibit 501,[7] page 139 of the English, equal to 180 of the German.

8. Document NG–3219, Exhibit 502,[8] page 141 of the English, equal to 183 of the German.

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[1] Decree of the Fuehrer and Reich Chancellor on Organization and Administration of the Eastern Territories, reproduced earlier in this section.

[2] Decree of the Fuehrer and Reich Chancellor concerning the coming into Force of the Decree Concerning the Administrative Structures of the Eastern Territories, 1939 Reichsgesetzblatt, part I, page 2057. This decree is not reproduced herein.

[3] Decree of the Fuehrer and Reich Chancellor Modifying the Decree Concerning the Administrative Structure of the Eastern Occupied Territories, 1939 Reichsgesetzblatt, part I, page 2135. This decree is not reproduced herein.

[4] Second Decree of the Fuehrer and Reich Chancellor Amending the Decree on the Organization and Administration of the Eastern Territories, 1940, Reichsgesetzblatt, part I, page 251. This decree is not reproduced herein.

[5] Decree of the Fuehrer and Reich Chancellor Concerning the Administration of the Occupied Polish Territories, reproduced earlier in this section.

[6] Fuehrer Decree concerning the Establishment of a State Secretariat for Security Affairs in the Government General, reproduced earlier in this section.

[7] Decree of the Fuehrer on the Administration of the Government General, 1942 Reichsgesetzblatt, part I, page 294, not reproduced herein.

[8] Decree of the Fuehrer Concerning the Appointment of Officials and the Termination of the Contract of Officials in the Sphere of Administration of the Government General, 1942 Reichsgesetzblatt, part I, page 341. This decree is not reproduced herein.

Witness, all of these eight documents involve Fuehrer decrees, cosigned by you. What type of decrees are these?

A. In the majority, these are decrees of organizational contents and I was officially responsible for editing and cosigning them.

Q. Did you have any responsibility or jurisdiction of your own concerning the areas regulated in these decrees under the aspects of substantive law?

A. No, not along these lines.

Q. At that time, when you cosigned these decrees, were you actually convinced and was it possible for you to gain the conviction that these decrees might pave the way for criminal action?

A. No. I wasn't able to draw any such inference.

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Q. There is one further document I have to supplement. I am referring to Prosecution Exhibit 497 which is Document PS–646[1] to be found on page 128 of the English, corresponding to page 162 of the German. This is a circular letter addressed to the Supreme Reich Agencies, dated 15 May 1940, and refers to the significance under the aspects of international law of the collapse of the Polish state. This document first of all contains a letter of the OKW addressed to the Foreign Office, dated 15 April 1940. Furthermore, it contains a communication of the Foreign Office addressed to you in your function as Chief of the Reich Chancellery, dated 15 April 1940. What do you have to say to the contents of these two documents? I have to propound this question because you informed the Supreme Reich Agencies of these documents.

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[At this point there was a recess, immediately followed by some procedural matters which temporarily interrupted the examination.]

DR. SEIDL: Witness, before the recess we had gotten as far as Document 646–PS, Prosecution Exhibit 492.

JUDGE MAGUIRE, PRESIDING: For the record, the document is PS–646, and the exhibit number 497.

DR. SEIDL: Yes, you are right. The document consists of two letters. One letter from the OKW to the Foreign Office, and a letter from the Foreign Office to you, both dated 15 April 1940.[2] You brought these two letters to the attention of the other Supreme Reich Agencies. Why did you inform other agencies about these two opinions and what was it all about?

[1] Document 646–PS, Prosecution Exhibit 497, reproduced earlier in this section.

[2] Document 646–PS, Prosecution Exhibit 497 consists of three letters, the third letter being Lammers', transmitting the other two to the Supreme Reich Agencies. The letter from the OKW to the Foreign Office is dated 15 April 1940; the letter from the Foreign Office to the Reich Chancellery, 15 May 1940.

A. In my opinion, both letters contain the view absolutely justified under the aspects of international law, to the effect that the Polish state was no longer in existence. The reasons were of particular importance for me, too, the reasons given by the Foreign Office, that is, which referred to the German Soviet Frontier Friendship Pact of 28 September 1939. Thereby, a particular international law which does not contradict general international law results from it, in the relationship between the German Reich and the Soviet Union. At the same time a corresponding territorial ruling is provided for. These reasons, of course, were of great interest to all Supreme Reich Agencies.

Q. That is why you distributed them?

A. Yes, because these expert opinions form, in part, a subsequent justification and in part future justification for measures referring to the incorporation and other decrees provided for in these areas.

Q. Did you incidentally distribute the circular letter with these expert opinions on your own authority and responsibility.

A. The matter had been submitted to the Fuehrer first. I don't know whether verbally or in writing and the circular letter had the Fuehrer's approval.

Q. In your circular letter, you do not yourself comment on the matters of international law dealt with in the expert opinions. Why not?

A. Because any comments on my part were not my function. They were not necessary and in such cases I always refrained from comments of my own because I was not entitled to make them.

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CROSS-EXAMINATION

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MR. HARDY: Well, now I want to hand you NG–1273, which is Prosecution Exhibit 483,* found in book 35, page 99 in the English and page 114 in the German. On page 99, that is, the first page of the document, under 1, it states there: "The Reich Minister intends to suggest to the Fuehrer that the Governor [Reich Protector] in Bohemia and Moravia, and the Governor General of the occupied Polish territories, as well as the Reich Commissioners in Norway and the Netherlands; and possible future Reich Commissioners to be appointed, be requested to submit regular monthly reports to the Fuehrer." Now my question—You refer here to "possible future Reich Commissioners." Who do you mean there?

* This document consisted of a number of memoranda and action notes of the Reich Chancellery bearing various dates from 30 May to 15 June 1940. The document is not reproduced herein.

DEFENDANT LAMMERS: In case any newly occupied territories should be acquired during the course of the war, or to change an existing military administration into a civilian administration.

Q. Well, how did you anticipate that there were to be "future Reich Commissioners" if you had no knowledge of any of these plans, as you have told us? Here, on 30 May 1940, were you aware of the fact that there were to be other territories to be occupied?

A. The area in France might have been extended; Belgium was changed from a military administration to a civilian administration, with a Reich Commissioner; occupied territories could be subdivided and new Reich Commissioners appointed.

Q. Well, now, what other specific victims were in your mind? How about Yugoslavia and Greece? Was that in your mind? Was Russia in your mind? The occupied territories of the East—was that perhaps in your mind at this time?

A. In May of 1940 I unquestionably did not and could not have the thought of them. I had no basis for such considerations.

Q. Then your explanation is that these future Reich Commissioners were in the event of a change of administration of territories, already occupied, is that right?

A. Or because of the acquisition of newly occupied territories from those countries with which we were at war; for example, in southern France there was no German administration; perhaps one might, however, come about upon the total occupation of France.

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Q. Now, let's turn to document book 35 again. The German page 126. This is Document PS–1365, Prosecution Exhibit 487,* Your Honors, book 35, in the English page 106, the German page 126.

PRESIDING JUDGE CHRISTIANSON: Did you say Exhibit 486 or 487?

MR. HARDY: 487.

PRESIDING JUDGE CHRISTIANSON: 487. All right.

MR. HARDY: Now, this document 1365–PS is a report which Schickedanz forwarded to you in June 1939, which is a top secret plan for the East. Now, why did he send that to you?

A. That was one of the reports which the Foreign Political Office [of the Nazi Party] sent via Schickedanz and myself to the Fuehrer.

Q. Well now, does the memorandum by Schickedanz and the cover letter there state that it was to be submitted to Hitler or was it for your information?

* Reproduced earlier in this section.

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A. No. None of these reports were sent for my information. If they had been they would have been completely worthless because in that case they would have disappeared into my desk drawer.

Q. Now, at that time, 15 June 1939, the date of this report, Poland was a sovereign State, wasn't it?

A. That is right.

Q. And the Jews living in Poland were Polish citizens, weren't they?

A. That is right.

Q. Now, what was the particular reason for Schickedanz to be reporting to you about the Jewish question in Poland?

A. That was a report on foreign policy affairs and such reports frequently dealt with such parts of populations of foreign states, reporting what their experiences had been in investigating such matters and what conclusions they felt they could draw from their investigations.

Q. Well then, Schickedanz's report merely indicated an academic or scientific interest on his part and on your part. Is that what you wish to tell us?

A. I have already said that it was destined for the Fuehrer, like all these reports, and in such political reports you found all sorts of things. There was long-winded material on foreign conditions, not only with reference to Poland but also with reference to other countries, in the case of such reports as went through my hands.

Q. Well now, Schickedanz, the same chap who sent you this report in June 1939, was later given an official position in the occupation of Poland, was he not?

A. No. He had no official position. I explained that to the Tribunal during my direct examination in detail.

Q. Well, all right. Was he your representative with Frank, the Governor General?

A. He wasn't my representative either. I sent him there simply to give him a job and gave him the task of observing, because questions in the Government General interested me.

Q. And he reported to you, didn't he?

A. A few times—two or three times—he reported to me.

Q. And then later you sent him to Norway, didn't you?

A. Since he didn't succeed in the Government General and since I still had to give him a job, I gave him the task of going to Norway, but after a brief time, after a few weeks probably, I recalled him because the Reich Commissioner Terboven did not wish to maintain any connections with me at all and certainly no connections through Schickedanz.

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EXTRACTS FROM THE TESTIMONY OF THE DEFENDANT SCHWERIN VON KROSIGK[1]

DIRECT EXAMINATION

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DR. FRITSCH (counsel for defendant Schwerin von Krosigk): Did you yourself discuss this matter [of the significance of British assurances to countries against which Hitler was making claims] with Ribbentrop?[2]

DEFENDANT SCHWERIN VON KROSIGK: Yes, I did. Over and over again I used every possible means with Ribbentrop in order to convey to him the opinion that I held concerning Great Britain and in order to convey to him my opinion that Britain's assurances were seriously meant. The last time that I mentioned this to him was in the summer of 1939. I warned him of overestimating Italy, and I warned him of underestimating Great Britain. I recalled to him Hitler's words proclaimed in the cabinet meeting of 1934 concerning the last warning that the dying Reich President von Hindenburg had given to Hitler. Ribbentrop's answer to that was that I didn't know Italy myself. As a matter of fact, I think that I was the only German Minister who had never paid a visit to our Axis partner. Ribbentrop then told me that he would see to it that Mussolini sent me an invitation so that I would have a chance to see Italy myself.

Q. Did Ribbentrop subsequently, as a matter of fact, proclaim at this time that if any war was possible it was being contemplated for the sake of Poland and that England would not intervene in that event?

A. No, no, Ribbentrop didn't go that far, as far as I was concerned—not to me. His opinion was that even the assurance given after Prague was not to be appraised in any more serious manner than those protests raised against the entry into the Rhineland and Austria, which were formal protests only. My answer to that was that my opinions of Hitler would not be changed by a short visit I might possibly pay to Italy. Despite that, the invitation was sent out, and during the second half of August I went to Rome. I proposed to visit the Italian Finance Minister Thaon De Reval and he was the man who officially tendered the invitation to me. But of course it was necessary to visit Mussolini and Ciano too. While I merely discussed common problems of interest with my colleague, the Finance Minister, which

[1] Further extracts from the testimony of the defendant Schwerin von Krosigk are reproduced above in section VI B this volume and in volume XIII, sections IX B 3 and X G.

[2] The direct examination immediately preceding this question is reproduced earlier in section VI B. It concerned the British attitude with respect to Hitler's claims and conduct with respect to Czechoslovakia.

issues had nothing whatever to do with the war—we were discussing the different systems that we had of levying taxes, etc.—Ciano, however, immediately discussed the political situation. He told me that in his opinion Hitler, as well as Ribbentrop, had a wrong opinion of the situation. If Germany were to undertake any measures whatsoever against Poland, war would break out with the Western Powers but, as far as rearmament, finance, and economy of Italy were concerned, Italy was absolutely not in a position to take any part in such a war.

Q. Therefore, you found corroborated exactly what you had indicated to Ribbentrop yourself?

A. Yes, that's what it is and that is why I immediately sent a cable to Ribbentrop; and I confirmed these statements in a letter. At that time I was of the opinion that this refusal of Italy would safeguard peace.

Q. You are referring to the letter which I have introduced as Krosigk Defense Exhibit 188, to be found in supplementary defense document book 2, Document Krosigk 328,[1] on page 111. This letter is addressed to Ribbentrop and it is dated 23 August 1939. Is that the letter?

A. Yes, that's the very letter.

JUDGE MAGUIRE, PRESIDING: Is that the same letter that appears in defendant Lammers' book?[2]

DEFENDANT SCHWERIN VON KROSIGK: Yes, it is, Your Honor.

DR. FRITSCH: In this letter you speak of the Polish conflict, and you also say that Germany could not possibly permit Poland to continue to treat Germany in such a manner.

A. Yes. Naturally before going to Rome I had inquired from Ribbentrop in order to obtain information concerning Hitler's point of view in the Polish issue. At that time I was given the same information concerning that point of view as I expressed it to Ciano in my conversation with him. I had to do that, of course; and I had to do so, nevertheless, in order to sufficiently impress Ribbentrop with the refusal of Italy to participate in a war, because otherwise, of course, the following would have been submitted to me in answer, "But you didn't even convey the German point of view to Ciano."

Q. I think we will have to furnish a brief answer to one question—Was it in order to hear of these matters that you went to Italy?

A. No. As such for years it had been proposed and planned that I visit the Italian Finance Minister, and in answer to all the invitations that I received over and over again I used to say that

[1] Reproduced earlier in this section.

[2] Judge Maguire refers to the fact that Document Krosigk 328, Krosigk Exhibit 188, was also introduced as Document Lammers 159, Lammers Defense Exhibit 110.

I wasn't available at that period of time; and I kept postponing my visit. Now, it was an official invitation and my discussion with Ribbentrop was merely the outward cause for that invitation to be tendered to me, and I could no longer refuse that official invitation. But the real purpose of my visit was to go and see the Finance Minister. However, it was inevitable for me to meet Ciano on that occasion; and I availed myself of that opportunity in order to notify Ribbentrop. And it was my firm conviction that my notification to Ribbentrop would have to contribute its part in order to prevent war.

Q. When did you return to Germany?

A. I believe that I am unable to give you the exact date; however, as far as I remember, it must have been on 26 or 27 August.

Q. Your State Secretary was also on vacation at that time, wasn't he?

A. Yes. He only returned from his vacation on 31 August. At that time—that is, after I returned from Italy, of course—I spoke with very many people and I heard many opinions as to whether war would or would not break out—very many divergent opinions. I still recollect a very lengthy discussion which I had with Guertner, Reich Minister of Justice. He expressed the very firm conviction that it was absolutely out of the question for everything that Hitler had achieved in the course of 6 years to be risked by him in one war, still possibly to be incurred. Guertner said that he considered all this talk about danger of war as one of the usually heavily exaggerated maneuvers.

* * * * * * *

Q. You remained in office, didn't you? Are you able to describe your position at that time?

A. Yes. I remained in office. I have already told you also that after war broke out it wasn't possible for me to resign from office. After all, it was absolutely necessary to work for the Fatherland in some position—that is, a position in which one had to perform one's technical tasks. Apart from that, anybody who couldn't look behind the scene had a very difficult job to verify the real causes leading up to war. Those offers to Poland which were made publicly known, seemed to be a fair basis of negotiation. Excesses committed against Germans in Poland, such as the "Bromberg Bloody Sunday," were facts. Therefore, unless you knew exactly all the details involved it was a very hard thing to decide who was really responsible and guilty. In any case, at that time I was convinced that it wasn't exclusively Germany which was guilty. However, in staying on my post, I could entertain the opinion perhaps to be able, in some form or other, to counteract any expansion of the war to a large-scale war.

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F. The Invasion of Denmark and Norway

TRANSLATION OF DOCUMENT 004–PS
PROSECUTION EXHIBIT 506

REPORT OF ALFRED ROSENBERG TO HITLER, 15 JUNE 1940, CONCERNING "THE POLITICAL PREPARATION OF THE NORWAY ACTION"[1]

Copy

The Political Preparation of the Norway Action

(The enclosures mentioned in the report have been omitted from this paper since they are only relative to specific matters. The complete report including appendices has been submitted to the Deputy of the Fuehrer by Reichsleiter Rosenberg on 17 June 1940.)[2]

The Foreign Political Office of the National Socialist Party has had contact for years with Vidkun Quisling, leader of the Nasjonal Samling [Nationalist Movement] in Norway. The director of the Office North of the Foreign Political Office—later victim of a fatal accident—paid him [Quisling] a personal visit on one of his trips to Scandinavia.

When in 1939 the general political situation was begining to grow critical Quisling gave the Foreign Political Office an estimate of the situation and his opinion about the possible intentions of Great Britain with relation to Scandinavia in case of conflict with the German Reich. Prior to the convention of the Nordic Association [Nordische Gesellschaft] in Luebeck, Quisling was received by Reichsleiter Rosenberg in Berlin. He [Quisling] pointed out the decisive geopolitical importance of Norway in the Scandinavian region and the advantages gained by the power in control of the Norwegian coast in case of conflict between the German Reich and Great Britain. He further explained the extraordinary clever, democratic and particularly Anglo-Saxon propaganda which had been accepted favorably by almost the entire nation, also because of Norway's economic dependence on the seas and therefore on England. Since he did not believe that the small nations would remain neutral in case of conflict—as had been the case in the World War of 1914—but was convinced that they would become involved in one way or another, he requested

[1] This document was introduced in the IMT trial as Exhibit GB–140, and the full German text appears in Trial of the Major War Criminals, *op. cit.*, volume XXV, pages 26–34.

[2] This note appears on the document introduced in evidence as an exhibit. This document was the copy retained in the Rosenberg file and later found by Allied investigators.

support for his party and press in Norway, basing his request on the pan-Germanic ideology. Reichsleiter Rosenberg also requested Amtsleiter Scheidt to arrange a meeting between Quisling and his Deputy Hagelin with State Secretary Koerner, bearing in mind that this matter might be of particular interest to Field Marshal Goering with regard to air strategy. This meeting with the State Secretary Koerner did take place. At the same time Staff Leader Schickedanz, directed by Reichsleiter Rosenberg, submitted the attached memorandum to Reich Minister and Chief of the Reich Chancellery Lammers for the information of the Fuehrer by the end of June 1939 (encl. No. 1.).[1]

After the Luebeck convention Amtsleiter Scheidt took a vacation trip to Norway to further pursue this matter. His observations are found in the attached report (encl. No. 2). Even during his presence in Germany Quisling had requested a short, pertinent training program for reliable party functionaries especially selected by him. This request was granted by Reichsleiter Rosenberg. In August 1939, a 14-day course was held at the school of the Foreign Political Office of the NSDAP in Berlin for 25 followers of the Nasjonal Samling who had been selected by Quisling.

In September Buergermeister Dr. Winkler[2] revealed that he had been charged with the financial aspects of Quisling's request by Field Marshal Goering through State Secretary Koerner. The outbreak of war and the beginning of the Polish campaign delayed the decisions (encl. No. 3). A further reminder of Reichsleiter Rosenberg to Field Marshal Goering in the course of a talk about the importance of Norway in connection with the matters set forth originally by Quisling had no practical results.

At the same time political tension increased in Norway as Russian activity made itself felt in the Baltic regions. Of this Quisling kept the office informed through his deputies in Germany. The outbreak of the Russo-Finnish war at the end of November helped to further increase the anti-German currents in all of Scandinavia and played into the hands of the Anglo-Saxon propaganda which was now building up to full strength. Greater Germany was represented as a secret ally of Soviet Russia and as the real culprit in Finland's misfortune. At the same time the Western Powers promised Finland military support which could only be supplied via Norway and Sweden. The possibility of a plan by Great Britain to occupy Norway and possibly Sweden to effectively close the blockade against Germany began to take shape, under the pretense of altruistic help to

[1] Enclosures mentioned herein were not a part of original exhibit.

[2] Reference is apparently to Max Winkler, former mayor of Grudziadz (Graudenz); in charge of the Combined Financial Control Board (Vereinigte Finanzkontore). Winkler appeared as a defense witness in this case (*tr. pp. 19654–19663*).

Finland. Its aim was to involve also the Nordic nations in a conflict against Greater Germany. Quisling informed the office about these new possibilities shaping on the political scene, acting through his deputy in Germany.

As the activities of the Allies became more and more noticeable in Norway, Quisling again came to Germany to voice his fears. He was received by Reichsleiter Rosenberg in the early part of December and he again presented his ideas. Firmly convinced that in the long run a genuinely neutral position in the great conflict would become impossible for the small nations and in his firm faith in the victory of Greater Germany in this conflict which was also an ideological one, Quisling considered it his duty—supported as he was by a small but determined minority—to tie Norway's fate to that of Greater Germany as the new center of strength of a Nordic-Germanic life community. We knew that his courageous group was the *only* pro-German Party. His deputy in Germany, Hagelin, had also arranged for a talk between Quisling and Admiral of the Fleet Raeder which took place about this time. During a report to the Fuehrer, Reichsleiter Rosenberg again mentioned Norway. He particularly pointed out her importance in the case of England deciding to occupy Norway with the tacit consent of the Norwegian Government, for the purpose of strengthening the blockade and under the pretense of help for Finland. Admiral of the Fleet Raeder, too, upon his request, was called to the Fuehrer in connection with his talks with Quisling. As a result of these steps Quisling was received by the Fuehrer for personal instructions on 16 December and again on 18 December. During this interview the Fuehrer emphasized repeatedly that the most preferable attitude of Norway as well as all of Scandinavia would be one of complete neutrality. He had no intentions to enlage the theatres of war to draw other nations into the conflict. If, however, the enemy were preparing an enlargement of the zones of war with the aim to further throttle and threaten the Greater German Reich then, of course, he would be obliged to arm against such steps. Then the Fuehrer promised Quisling financial support for his movement based on the pan-Germanic ideology and for the purpose of combatting the increasing enemy propaganda. The military matters of the question were now transferred to a special military staff which assigned special missions to Quisling and heard his opinions (encl. No. 29). The political treatment was to be handled by Reichsleiter Rosenberg, expenses were to be carried by the Foreign Office and Reichsminister for Foreign Affairs was to be kept informed at all times. Maintenance of liaison with Quisling was assigned to Amtsleiter Scheidt who, as matters developed further,

was attached to the Naval Attaché in Oslo, Lieutenant Commander Schreiber. Strictest secrecy was ordered for the entire matter.

Then, in January, during a conference between Reichsleiter Rosenberg and Foreign Minister von Ribbentrop it was decided to appropriate to Quisling an initial sum of 200,000 Goldmark. This money was to be taken to Oslo, in two installments, by the liaison agent Scheidt where it was to be handed to Quisling. In the Foreign Office Privy Councillor von Grundherr[1] was the only one to be told of this arrangement (encl. No. 3).

As shown in the attached documentary memoranda Quisling's reports transmitted by his Deputy in Germany, Hagelin, concerning the possibility of active intervention of the Western Powers in Norway with consent of the Norwegian Government became more and more alarming. These reports continuously supplemented with more and more accurate confirmations by Quisling's confidants were in certain contrast with the opinions of the German Legation in Oslo. The Legation believed in the neutral intentions of the Norwegian Nygaardsvold[2] Government of that time and was further convinced that the govenment would take arms in defense of its neutrality policy. The Foreign Office held the same opinion as is shown in the attached documentary memorandum dated January 8 which is the result of a talk between Amtsleiter Scheidt and Privy Councillor von Grundherr (encl. 8). It is of special interest that Hagelin, Quisling's deputy in Germany, whose intimate connection with Quisling was not known in Norway succeeded in getting a foothold in the circles of the Nygaardsvold government. Thus, he heard the uncolored opinions of the members of the government who conducted themselves like a secret Norwegian-Anglophile society.

In the file memorandum of January 13 he related the opinions expressed to him by two Norwegian Ministers. The gist of the opinions was that Germany had already lost the war and that Norway—if only because of her large merchant marine—could not do other than favor England in her politics, in war even more so than in peace; and further, that the entire nation agreed with this policy (encl. 9). During the night of February 16 to 17 the English raided the "Altmark" in the Joessingsfjord. The reaction of the Norwegian Government to the Altmark Affair seemed to indicate that certain secret arrangements had been made between the Norwegian Government and the Allies. This was further emphasized in Amtsleiter Scheidt's consolidated

[1] Werner von Grundherr testified as a defense witness. His complete testimony is recorded in the mimeographed transcript (24–25 August 1948), pages 17854–17897; 18085–18161. See Document Woermann 121–C, Woermann Defense Exhibit 56 reproduced below.

[2] Johan Nygaardsvold, Prime Minister of Norway, 1935–40.

report covering 20 January to 20 February (encl. No. 11) after he had received Hagelin's report. Hagelin had overheard the conversation between two members of the Storting [Norwegian Parliament] during which one member said to the other that the actions of the two commanders of the Norwegian torpedo boats had been a "prearranged affair." The same report also refers to the English demands for air bases in Norway and for freedom of trade in the Norwegian waters. It goes on to say that although the Norwegian Government refused those demands it was agreed that violations by the English would be answered with paper protests only. Such reports, and confirmations thereto, were time and again supplied through Quisling. In complete contrast to those opinions, the German Legation, even after the Altmark Affair, relied fully upon the good will of the Norwegians. The Ambassador cited the signing of the Norwegian-German trade agreement as weighing heavily in favor in his point of view. He already considered the Norwegian Nygaardsvold Government somewhat dependent on the Greater German Reich (encl. Nos. 11 and 12). All these reports were currently submitted to the Fuehrer by Reichsleiter Rosenberg. Quisling always emphasized that more than 90 percent of the country was behind England and that he only represented a minority which, however, was chosen by virtue of its intuition to take charge later on as the representatives of a new Norwegian nation.

Apart from financial support which was forthcoming from the Reich in currency, Quisling had also been promised a shipment of material for immediate use in Norway such as coal and sugar. Additional help was promised. The shipments were to be conducted under cover of a new trade company to be established in Germany or through especially selected existing firms, while Hagelin was to act as consignee in Norway. Hagelin had already conferred with the respective ministers of the Nygaardsvold government as for instance the Minister of Supply and Commerce and had been assured permission for the import of coal. At the same time the coal transports were to serve possibly the technical means necessary to launch Quisling's political action in Oslo with German help. It was Quisling's plan to send a number of selected, particularly reliable men to Germany for a brief military training course in a completely isolated camp. They were then to be detailed as area and language specialists to German special troops who were to be taken to Oslo on the coal barges to accomplish a political action. Thus Quisling planned to get hold of his leading opponents in Norway including the King, to prevent all military resistance from the very beginning. Immediately following this political action and upon an official request of Quisling

to the Government of the German Reich, the military occupation of Norway was to take place. All military preparations were to be completed previously. Though this plan contained the great advantage of surprise it also contained a great number of dangers which could possibly cause its failure. For this reason it received a quite dilatory treatment while, at the same time, it was not disapproved as far as the Norwegians were concerned.

In February, after a conference with Field Marshal Goering, Reichsleiter Rosenberg informed the Ministerial Director in the Office of the Four Year Plan, Wohlthat, only of the intention to prepare coal shipments to Norway to the named confidant Hagelin. Further details were discussed in a conference between Ministerial Director Wohlthat, Staff Leader Schickedanz and Hagelin. Since Wohlthat received no further instructions from the Field Marshal, Foreign Minister von Ribbentrop—after a consultation with Reichsleiter Rosenberg—consented to expedite these shipments through his office. Based on a report of Reichsleiter Rosenberg to the Fuehrer it was also arranged to pay Quisling ten thousand English pounds per month for 3 months commencing on 15 March, to support his work. This money was to be paid through the liaison agent Scheidt.

Meanwhile Hagelin, through his connection in Norway as trusted agent of the Norwegian navy, had been commissioned with the purchase of German AA guns through the German Navy Ministry. Through this connection he gained more and more insight into the actual ideas and intentions of the Norwegian Nygaardsvold Government and into the Allied preparations which had already started in Norway. While in Germany on 20 March to attend conferences regarding the delivery of the German AA guns, he made a detailed report about the increasing activity of the Allies in Norway, tolerated by the Nygaardsvold government. According to his reports the Allies were already checking the Norwegian coastal towns for landing and transport possibilities. He also stated that the French Commandant Kermarrec who was charged with this reconnaissance had a confidential talk with Colonel Sundlo, Commandant of Narvik, who is a follower of Quisling; during the course of the talk he told him of the Allied intentions to land motorized troops in Stavanger, Trondheim and possibly also at Kirkenes and to occupy the airport at Sola (encl. No. 14). At the same time Hagelin increased his oral and written warnings regarding the confidential agreements between the Allied and Norwegian Governments stipulating that in case of an Allied occupation of coastal towns the Norwegian Government would not go beyond paper protest, as was the case in the Altmark Affair. And again, in his report of 26 March (encl. Nos. 15 and

16) he pointed out that the speech of the Norwegian Foreign Minister Koht dealing with Norwegian neutrality and containing some protests was not being taken seriously either in London by the English or in Norway by the Norwegians. It was well known that the government had no intentions to take a stand against England. However, to keep up appearances towards Germany up to the last minute the Norwegian Government intended to issue an order to fire. This was to demonstrate that everything within their power had been done. There was a continuous series of conferences between the King, the Commanding Admiral, the Crown Prince and the newly appointed Minister of War Ljungberg who had been placed in office at the special request of England as early as January. A person close to the King as well as the Commanding Admiral explained to Hagelin that the above mentioned actions by England were quite unavoidable since she knew that she could only win the war if she were in control of the Norwegian ports. Furthermore England feared a German counterblow which was not to be allowed to materialize. The Norwegian Government was also notified by London that Germany intended to mine the waters between Jutland and the Norwegian coast. Based on a message from England this plan was revealed on or about March 15 during a secret session of the Foreign Affairs Committee of the Storting by Foreign Minister Koht. As a matter of fact, during the course of the military preparations for the occupation of Norway this plan had been adopted by the German military authorities and to this day it is a mystery how this plan got to London. In view of all this news Quisling could not longer back his earlier advice to continue watching the development of the situation in Norway. He now had to point out that any further delay would mean a grave risk. The above was probably the most decisive report ever to be submitted here by Hagelin. Reichsleiter Rosenberg immediately transmitted it to the Fuehrer (encl. No. 15).

While still in Berlin Hagelin was requested by Colonel Schmundt to make speedy arrangements for a conference between Quisling and a colonel of the General Staff at some neutral location. This conference was held in Copenhagen in the beginning of April.

In confirmation of all this information coming from Quisling and his confidants and in contrast to the opinion held up to the end by the German Legation in Oslo and by the Foreign Office, the Allies, on 8 April, initiated their first major blow as an introduction to their intended occupation of Norway. During the night from 7 to 8 April they mined the Norwegian coast and made public announcement of this act. Norway's reaction, con-

sistent with the reports always received by the Foreign Political Office of the NSDAP, was nothing more than protests on paper growing weaker by the hour. Then, after proper preparations and by command of the Fuehrer, Greater Germany undertook the counterblow in the morning of 9 April and occupied the most important Norwegian airfields and seaports.

Reports about the further political developments in Norway proper are found in the appended memoranda (encl. Nos. 18–30).

After the success of the occupational operations in Norway seemed assured the Fuehrer called for Reichsleiter Rosenberg for a short talk before lunch, on 25 April. He oriented him [Rosenberg] about the developments of the military action in Norway where the English auxiliary corps [Hilfskorps] had just suffered a decisive defeat combined with the capture of important documents and plans. He further revealed to Reichsleiter Rosenberg that he had based this most daring decision which was now approaching successful completion on the continuous warnings of Quisling as reported to him by Reichsleiter Rosenberg. And that it actually happened in the Trondheim Fjord that behind the stern of the last German troop transport there appeared the bow of the first English destroyer which conveyed the Allied troop transport fleet. This destroyer was wiped out by the German navy.

Berlin, 15 June 1940

PARTIAL TRANSLATION OF DOCUMENT 007–PS PROSECUTION EXHIBIT 207

EXTRACTS FROM A REPORT OF ALFRED ROSENBERG ON "ACTIVITIES OF THE FOREIGN POLITICAL OFFICE OF THE NAZI PARTY FROM 1933 TO 1943" CONCERNING NORWAY*

Brief Report on Activities of the Foreign Political Office of the Nazi Party from 1933 to 1943

When the Foreign Political Office was established on 1 April 1933, the Fuehrer directed that it should not be expanded to a large bureaucratic agency, but should rather develop its effectiveness through initiative and suggestions.

Corresponding to the extraordinarily hostile attitude adopted by the Soviet Government in Moscow from the beginning, the newly established bureau devoted particular attention to internal conditions in the Soviet Union, as well as to the effects of world bolshevism primarily in other European countries. It entered

* This document was introduced in the IMT trial as Exhibit GB–84, and the full German text appears in Trial of the Major War Criminals, *op. cit.*, volume XXV, pages 34–47.

into contact with the most variegated groups inclining towards national socialism and combatting bolshevism, focussing its main attention on nations and states bordering on the Soviet Union. On the one end these nations and states constituted an *insulating ring* encircling the Bolshevist neighbor; on the other hand, they were the *lateral of German living space* [Fluegelstellung zum deutschen Lebensraum] and took up a *flanking position towards the Western Powers* [Flankenstellung gegenueber den Westmaechten] especially Great Britain. In order to wield the desired influence by one means or another, the Office was compelled to use the most varying methods, taking into consideration the completely different living conditions, the ties of blood, intellect, and history of the movements observed by the Office in these countries.

In *Scandinavia,* an outspokenly pro-Anglo-Saxon attitude, based on economic considerations, had become progressively more dominant after the World War of 1914–18. There the Office put entire emphasis on influencing general *cultural* relations with the Nordic peoples. For this purpose it took the Nordic Society in Luebeck under its protection. The Reich conventions of this society were attended by many outstanding personalities, especially from Finland. While there were no openings for purely political cooperation in Sweden and Denmark, an association based on Greater Germanic ideology was found in Norway. Very close relations were established with its founder, which led to further consequences. (See annex I for more detailed exposition).

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The Office has carried out the initiating of all politically feasible projects. With the outbreak of war it was entitled to consider its task as terminated. The exploitation of the many personal connections in many lands can be resumed under a different guise.

[Signed] ROSENBERG

2 Inclosures
I Norway
II Rumania

Annex I to Brief Report on Activities of the Foreign Political Office of the Nazi Party from 1933 to 1943

The Political Preparation of the Military Occupation of Norway During the War Years 1939–40

As previously mentioned, of all the political groupings in Scandinavia, only the "Nasjonal Samling," led in Norway by the former Minister of War and Major of the Reserve Vidkun Quisling,

deserved serious political attention. This was a fighting political group, possessed by the idea of a Greater Germanic Community. Naturally all ruling powers were hostile and attempted to prevent, by any means, its success among the population. The office maintained constant liaison with Quisling and attentively observed the attacks he conducted with tenacious energy on the middle class which had been taken in tow by the English. From the beginning it appeared probable that without revolutionary events, which would stir the population from their former attitude, no successful progress of Nasjonal Samling was to be expected. During the winter 1938–39 Quisling was privately visited by a member of the office. When the political situation in Europe came to a head in 1939, Quisling made an appearance at the convention of the Nordic Society in Luebeck in June. He expounded his conception of the situation, and his apprehensions concerning Norway. He emphatically drew attention to the geopolitically decisive importance of Norway in the Scandinavian area and to the advantages that would accrue to the power dominating the Norwegian coast in case of a conflict between the Greater German Reich and Great Britain. Assuming that his statements would be of special interest to Reich Marshal Goering for aero-strategical reasons, Quisling was referred to State Secretary Koerner by the Office. The Staff Leader of the Office [Schickedanz] handed the Chief of the Reich Chancellery a memorandum for transmission to the Fuehrer. It dealt with the same subject, still taking into account the then doubtful attitude of Soviet Russia. After the outbreak of German-Polish hostilities and of the Soviet-Finnish war, tensions in Scandinavia became more strained and facilitated the work of Anglo-Saxon propaganda. It began to appear possible that, under the pretext of altruistic aid to Finland, Great Britain might intend to occupy Norway and perhaps Sweden, to complete the anti-German Blockade in the North Sea for all practical purposes and to gain comfortable airplane bases against Germany. The aim would have been to drag the northern countries, too, into a military conflict with Germany. Apprehensive about this development, Quisling again appeared in Berlin in December 1939. He visited Reichsleiter Rosenberg and Admiral of the Fleet Raeder. In the course of a report to the Fuehrer, Reichsleiter Rosenberg turned the conversation once more to Norway. He especially pointed to Norway's importance should England, to tighten her blockade and under the pretext of aid to Finland, take steps to occupy the country, with the Norwegians' tacit consent. On the basis of his conversation with Quisling and at his own request, Admiral of the Fleet Raeder, too, had been asked to see the Fuehrer. In consequence of these steps, Quis-

ling was granted a personal audience with the Fuehrer on 16 December and once more on 18 December. In the course of this audience the Fuehrer emphasized repeatedly that he personally would prefer a completely neutral attitude of Norway as well as of the whole of Scandinavia. He did not intend to enlarge the theaters of war and to draw still other nations into the conflict. Should the enemy attempt to spread the war, however, with the aim of achieving further throttling and intimidation of the Greater German Reich, he would be compelled to gird himself against such an undertaking. In order to counterbalance increasing enemy propaganda activity, he promised Quisling financial support of his movement, which is based on Greater Germanic ideology. Military exploitation of the question now raised was assigned to the Special Military Staff, which transmitted special missions to Quisling. Reichsleiter Rosenberg was to take over political exploitation. Financial expenses were to be defrayed by the Foreign Office, the Minister for Foreign Affairs being kept continually informed by the Foreign Political Office. Amtsleiter Scheidt was charged with maintaining liaison with Quisling. In the course of further developments he was assigned to the Naval Attaché in Oslo, Lieutenant Commander Schreiber. Orders were given that the whole matter be handled with strictest secrecy.

Quisling's reports, transmitted through his representative in Germany, Hagelin, and dealing with the possibility of intervention by the Western Powers in Norway with tacit consent of the Norwegian Government, became more urgent by January already. These increasingly better-substantiated communications were in sharpest contrast to the view of the German Legation in Oslo, which relied on the desire for neutrality of the then Norwegian Nygaardsvold Cabinet and was convinced of that government's intention and readiness to defend Norway's neutrality. No one in Norway knew that Quisling's representative for Germany maintained closest relation to him; he therefore succeeded in gaining a foothold within governmental circles of the Nygaardsvold Cabinet, and in listening to Cabinet member's true views. Hagelin transmitted what he had heard to the Bureau, which conveyed the news to the Fuehrer through Reichsleiter Rosenberg. During the night of 16 to 17 February English destroyers attacked the German steamer "Altmark" in Joessingfjord. The Norwegian Government's reaction to this question permitted the conclusion that certain agreements had been covertly arrived at between the Norwegian Government and the Allies. Such assumption was confirmed by reports from Amtsleiter Scheidt who in turn derived his information from Hagelin and Quisling. But even after this incident the German Legation in Oslo championed

the opposite view and went on record as believing in the good intentions of the Norwegians.

Thanks to his connections in Norway as agent of the Norwegian navy, Hagelin had succeeded, in the meantime, in being entrusted with the purchase of German AA guns through the German Navy Ministry. Through these connections he gained more and more insight into the real views and intentions of the Norwegian Nygaardsvold Cabinet, and into the preparations already initiated by the Allies in Norway. At the occasion of his presence in Berlin on 20 March to negotiate about delivery of German AA guns, he mentioned that the Allies were now even examining Norwegian ports for loading and transportation facilities. The French Commandant entrusted with this mission was said to have revealed Allied intentions in confidential conversations with the commander of Narvik, an adherent of Quisling.

These intentions were to land motorized troops at Stavanger, Trondheim, and perhaps Kirkenes and to occupy Sola airdome near Stavanger. Hagelin also reemphasized his warnings about an agreement secretly concluded between the Allies and the Norwegian Government according to which the Norwegian Government would content itself solely with paper protests in case of a possible occupation of port cities by the Allies. He pointed out that the Norwegian Government had never intended seriously to oppose England and that it was playing a two-faced game with Germany solely to gain time for *faits accomplis*. He also mentioned that the Norwegian Government had been informed by England that Germany intended to lay a mine field from Jutland to the Norwegian coast. In view of all the information that had reached him, Quisling could no longer stand by his advice to await developments in Norway for a little while longer; he was compelled to point out that any delay of the German counterthrust would entail extraordinary risks. These reports were immediately transmitted to the Fuehrer by Reichsleiter Rosenberg. On 8 April the Allies struck the first blow in preparation for their intended occupation of Norway, thus confirming these reports made by Quisling and his agents, and in contrast to the views held to the end by the German Legation in Oslo and by the expert of the Foreign Office. During the night from 7 to 8 April mine fields were laid alongside the Norwegian coast by the Allied fleet and Allied governments informed the world of the steps they had taken. In accordance with indications given by the Office, only progressively more tepid protests were made by Norway. By order of the Fuehrer, Greater Germany counterattacked, after corresponding preparation, in the morning of 9 April and occupied the most important Norwegian seaports and airdromes.

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PARTIAL TRANSLATION OF DOCUMENT 1639-PS
PROSECUTION EXHIBIT 503

LETTER FROM SCHICKEDANZ TO DEFENDANT LAMMERS, 21 DECEMBER 1939, TRANSMITTING THE FILE NOTES OF SCHICKEDANZ' ORAL REPORT OF 19 DECEMBER 1939 CONCERNING PREPARATIONS FOR THE OCCUPATION OF NORWAY

21 December 1939

Schi./L 4955/39
[Schickedanz dictation symbol
and file reference]
To the Reich Minister and Chief of the Reich Chancellery
Dr. Hans Heinrich Lammers
Berlin W. 9, Vosstr. 6

Dear Reich Minister Dr. Lammers:

According to your wish, please find attached hereto the file notes on my topics for the oral report of 19 December of this year.

Heil Hitler!

[Stamp] Secret Reich Matter

Notes for the files on oral report of 19 December 1939

Subject: 1. Norway

(Transmittal [Uebergabe] of copy of memorandum on Norway of summer of this year)

Report of Admiral of the Fleet Raeder on Norway's significance in the present war. In his opinion it was a decisive position.

Report of Reich Leader Rosenberg regarding Quisling. Conference on Saturday, 16 December, present—Quisling and his representative for Germany, Hagelin; for the NSDAP Foreign Political Office, Reichsamtsleiter Scheidt; for the Foreign Office, Hewel; Lieutenant Commander von Puttkammer. [Puttkamer]*

By request of the Fuehrer's military adviser, General Jodl, conference on Monday, 18 December, present—Quisling, Hagelin, Scheidt, Hewel, Colonel Schmundt.

Assurance for support. In charge—Office Rosenberg and Foreign Office.

Orientation about Quisling's explanations on followers in the country and possible participation of the military forces there. While being carried out, securing our position by respective active cooperation (Norwegians as interpreters and persons familiar with the localities). Consideration of 95 percent hostile attitude

* Appeared as defense witness, 14 October 1948 (see tr. pp. 25802-25817).

of the country which might find increased expression, after the Quisling action (destruction of navigation, foreign trade, fishing, etc.) ; therefore in order to avoid inner conflicts, as a precaution, police penetration of the country to be available in reserve in order to circumvent possible use of military forces. Uncertainty on Haakon's* attitude. Necessary security and strengthening of Quisling but also against surprises from this side.

Financial means—(1) for the initiation (2) for the execution (coal deliveries, ship transports, etc.) training camps.

Especially peculiar position of the country after the action owing to Quisling's absolute dependency on us, particularly considering the ensuing possibilities in the two other Nordic countries.

From the beginning, planning of a political central agency which properly evaluates in advance the coming difficulties and the exceptional situation. Political leadership as near as possible to the deciding office [entscheidende Stelle] to avoid any delays caused by the participation of several departments and to make it possible to reach fast decisions. Therefore best Reich Chancellery directly but completely camouflaged by respective measures. Exclusion of the Foreign Office from the action itself, only Reich Foreign Minister to be kept informed in order not to burden the Office.

* Haakon VII, King of Norway.

TRANSLATION OF DOCUMENT NG–2585
PROSECUTION EXHIBIT 3573

TELEGRAM FROM DEFENDANT VON WEIZSAECKER TO THE GERMAN MINISTER IN NORWAY, 23 DECEMBER 1939, CONCERNING SCHEIDT'S VISIT TO OSLO*

Berlin, 23 December 1939

Diplogerma Oslo
No. 542 e. e. Pol. VI. 2667 g
State Secretary Secret
Under State Secretary, Pol. Urgent
Telegram in Code

Secret

For the personal attention of the Minister

With reference to telegram No. 482, dated 17 December.

Reichsamtsleiter Scheidt of the Foreign Political Office left yesterday for Oslo, where he will spend a few days on order of Reich Leader Rosenberg and keep in touch with Quisling, Hagelin and his circle. The purpose of this journey is to observe Quisling's plans without actively interfering with them. The Reich Foreign Minister requests you to keep in touch discreetly with Scheidt and come to Berlin for instructions, either shortly before or after the New Year. You will report in this matter to the Reich Foreign Minister, myself, and to Grundherr only.

WEIZSAECKER

TRANSLATION OF DOCUMENT NG–3955
PROSECUTION EXHIBIT 3574

REPORT BY DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 2 APRIL 1940, CONCERNING A DISCUSSION WITH THE SWEDISH MINISTER RICHERT

Secret! Berlin, 2 April 1940

State Secretary No. 264

The *Swedish* Minister [Arvid Richert] who had some business this morning in other offices of the Foreign Office, in conclusion paid me a visit and read to me the following from a memorandum:

"The Swedish Minister communicates that in accordance with news from Stockholm there is no reason to be afraid of a

* Concerning Scheidt's activities in Norway, also see Rosenberg's memorandum, Document 004–PS, Prosecution Exhibit 506, reproduced earlier in this section.

British violation of the neutrality of the north. The Swedish Government is willing and considers itself able to repel any possible intervention. It may be pointed out that considerable troop units are still stationed in north Sweden."

(Mr. Richert left the text of the memorandum with me.)

I asked the Minister whether he also wanted to include Norway in his expression with regard to the unconcern about British violation of the neutrality of the "North," the recent events—the Altmark case* and similar ones tell a different story, to be sure.

Upon Mr. Richert's answer that his government, in spite of the attitude of the Allies, was not troubled about the future, I referred to the French and English press, as well as to speeches of Allied Ministers, especially to the desire for action on part of the new Cabinet of Reynaud. Mr. Richert confirmed on his own that Churchill's last speech was not very encouraging, his government, however, judges the situation as stated before.

The Minister then suddenly [unvermittelt] asked me whether I could give him any information concerning rumors according to which German units and navy transports were being concentrated near Stettin. My return question to Mr. Richert, whether he asked this in connection with the first mentioned matter, was denied by Mr. Richert. I added that I had not received any such military information and that I was not informed about any of our military movements. Furthermore I told him that it is not customary in time of war, to give information concerning military questions to third persons, not even to close friends.

When Mr. Richert insisted, whether I could not get this information I answered him in the negative again.

Herewith to the Reich Foreign Minister

Signed: WEIZSAECKER

Copies to:

Deputy Under State Secretary Political Dept.
Deputy Political Dept.
Councillor of Legation v. d. Heyden-Rynsch

[Handwritten] Sweden

* Discussion concerning the Altmark incident is contained in an extract from the testimony of defendant Otto Schniewind in the "High Command Case." See section VI D 2 *a*, volume X, this series.

PARTIAL TRANSLATION OF DOCUMENT 3596-PS
PROSECUTION EXHIBIT 3575

EXTRACTS FROM NOTES ON A CONVERSATION WITH GENERAL HIMER, 12 AUGUST 1940, CONCERNING POLITICAL AND MILITARY DEVELOPMENTS IN CONNECTION WITH THE GERMAN OCCUPATION OF DENMARK

Hq. A.P.O. No: 17632 — 12 August 1940

Secret!

Deputy of the Chief of the Army Archives attached to the Commander of the German troops in Denmark

Notes of a conversation on 8 August 1940 between the Deputy Chief Custodian of Army Archives, Senior Archive Counsellor Goes, and Brigadier General Himer who until 31 May 1940 was Chief of the General Staff of Corps Command XXXI [Hoeh. Kommando XXXI]

In this conversation Brigadier General Himer gave the undersigned some glimpses into the preparation and execution of the undertaking against Denmark on 9 April 1940, which are not contained in the war diary or in the war documents. They are, however, of such great psychological importance for the later writing of the history of the war that they should be retained in the following account.

* * * * * * *

On 2 March 1940 the Chief of the General Staff, Brigadier General Himer, was ordered by telephone to Berlin through the Operations Department of the General Staff (Lieutenant Colonel Heusinger of the General Staff) for a conference on 5 March 1940 and there initiated by Lieutenant General of Infantry von Falkenhorst (Group XXI) into the proposed execution of an undertaking against Denmark. Whether the operation should be carried out and if so, when, was left open. The work regarding it had, however, to be carried out at once with the greatest speed. The strictest secrecy was essential for success.

On 5 March 1940 the senior officer of Corps Command XXXI, Lieutenant General of the Air Force Kaupisch, also arrived in Berlin and immediately after his arrival he was informed by General Himer of the work pending.

As Corps Command XXXI in Ortelsburg was to be replaced by Corps Command XXXV [XXXXV], which was scheduled to be formed, the operations officer [Ia] and a part of the staff remained behind for the new formation of Corps Command XXXXV.

Major Macher of the General Staff was transferred to Corps Command XXXI as the new operations officer but he could not arrive in Berlin before 10 March. For the preparations, chief supply officer [Qu] (Captain von Witzleben), intelligence officer [Ic], (Major von Heydebreck), assistant operations officer [O1] (Captain Trommer), administrative officer [IVa] (Intendanturrat Dr. Filitz), later weapons and equipment and assistant supply officer, were gradually included.

According to orders the remaining staff of Corps Command XXXI was, on 7 March, sent with the mass of troops from Ortelsburg to Hamburg. As the result of heavy snowfalls and completely snow-blocked roads the march was considerably delayed, especially in East Prussia, at the crossing of the Volga (ferry at Koppelbuede) and in Pomerania.

The circle of officers which of necessity had to be informed of the undertaking which was being prepared grew gradually larger; keeping it secret became that much more difficult; every officer was bound to it by shaking hands. The orders and regulations were only allowed to be drawn up by officers, one of whom undertook the typing work and the preparation of dispatches.

At first only two small rooms were available in the building of the High Command of the Armed Forces, Department L, in Berlin at Bendlerstrasse, until the Staff succeeded in having further rooms allotted. Work had to be done in the smallest space with the most simple equipment, produced literally from nowhere, which made it very difficult.

The plan of deployment, the entry into Denmark as well as the transport of troops across the sea, the coordination with the air force was all worked out to the last detail in collaboration with Group XXI and the experts for naval and air force matters attached to Group XXI. As it was not yet definite whether the undertaking would be carried out, the preliminary work of the whole operation had to be finished as soon as possible. Various possible deadlines were mentioned from time to time. As they were very limited, the work had to be intensified still more, which, as the result of lack of motor vehicles, supply trains [Kolonnen], equipment and arms for individual formations, some of which were newly formed, made it particularly difficult.

The Commander of the Replacement Army gave the High Command splendid support in this. The difficulties that had to be overcome in this connection are illustrated by the following example: After the schedule of operations had already been set up, a different loading capacity was reported for certain of the transport vessels, so that the schedules for troop shipments had to be revised only a short time before the undertaking was to begin.

On the afternoon of 1 April, the commanders and divisional commanders, with their chiefs of staff and operations officers who were taking part in the Norway-Denmark enterprise, made their reports to the Fuehrer. The latter stressed the great importance of the undertaking and the necessity for secrecy concerning this "most bold and impudent undertaking in the history of warfare." If a word of it were to reach the public, it would be impossible to carry it out, not to mention the effect on foreign relations. General Keitel concluded the conference with a discussion of single, particularly important operations involved and likewise emphasized the necessity of secrecy concerning the preparations.

The forces required for the undertaking were first assembled in the area about Pritzwalk (198th Div.), Magdeburg (11th Rifle Brigade), and Bremen (170th Div.). They were prepared for their tasks (removal of bridgeheads, assault troop operations, etc.) in an inconspicuous manner. The troops were moved into the staging area only a short time before "Weser Day." In order to keep them in complete ignorance of their coming assignment, Corps Command XXXI isued orders for what were apparently to be large-scale maneuvers in the Hamburg-Munsterlager-Hannover-Magdeburg-Rostock area. (Cf. War Diary.)

The camouflage succeeded completely in its purpose. The troops were convinced that they were being assembled in Schleswig-Holstein, in order to start from here toward the south for reconnaissance and battle exercises on a large scale.

In the meantime, secret reconnaissance still had to be carried out in Denmark itself, in order to check and to complete the material on hand. Only a preparation of the operation thorough in every respect guaranteed success and saved unnecessary victims.

Corps Command XXXI was completely prepared for a serious fight. On the success of the operation against Denmark depended the success of the operation against Norway, because Denmark represents the connecting bridge to Norway which had to be taken first and had to remain in our hands firmly.

When 9 April, 5:15 a.m. was finally designated as the day to move into Denmark, the preparations had been finished.

First, the command staff proceeded to Hamburg on 6 April.

The chief of the General Staff had received orders to proceed ahead to Copenhagen as Plenipotentiary of the Armed Forces in order to give the Plenipotentiary of the Reich (Minister von Renthe-Fink) the documents and information about the carrying out of the occupation which were necessary for presentation of

the demands of the Reich, intended for the morning of 9 April; and he was to support him effectively in the execution of his task.

For that purpose, a discussion took place in the afternoon of 6 April in the presence of the State Secretary of the Foreign Office von Weizsaecker, in which [Under] State Secretary Dr. Gaus (Foreign Office), General Himer, Lieutenant-Colonel of the General Staff Pohlmann (operations section, Group XXI), Lieutenant-Colonel of the General Staff Boehme (Armed Forces High Command, Department L), Legation Secretary Dr. Schlitter as well as two other Legation secretaries, took part.

On 7 April General Himer went to Copenhagen as "Senior Government Counsellor," [Oberregierungsrat]. His uniform pieces went as courier luggage with the Legation Secretary Dr. Schlitter, who had the order to give a strictly secret, sealed letter to Minister von Renthe-Fink on 8 April at 11 p.m.

8 April was reserved for urgent military reconnaissance which was carried out by General Himer together with Colonel Petersen (Attaché for the Air Force). The report on hand at the corps command up to that time that the harbor of Copenhagen was icebound turned out to be wrong, as an incipient west wind had made the port free of ice on the morning of 8 April. The "Long Line" [Lange Linie] was full of ships. A docking of the "Hansestadt Danzig" which was supposed to disembark the 1st battalion of the 308th Regiment in Copenhagen, on 9 April at 5:15 a.m. was possible on one spot only, between other steamers, in case of necessity. However, the Attaché for the Air Force, Colonel Petersen, was able to report to General Himer still in the morning that two steamers which were at the time on the southern part of the "Long Line" would most likely set sail during 8 April. The reconnaissance of the neighborhood of the citadel confirmed the fact that it was possible to penetrate into the citadel without difficulties on the southeastern corner. This was the weak point. The results were immediately sent by coded telegrams to Group XXI for Corps Command XXXI. A truck had to be ready for the transport of the equipment of the heavy radio station which was attached to the 1st battalion of the 308th Regiment; this, too, had to be done without giving rise to suspicion. Under strictest obligation to keep it a secret, a German citizen in Copenhagen who was a reserve officer was told that a German boat, coming from a long voyage, would land in Copenhagen for a short time on the morning of 9 April, in order to unload some cases; for that purpose a truck would have to be on the "Long Line" on 9 April at 4 a.m. Danish time (5 a.m. German time).

The citadel, its approaches and the possibility of taking them by surprise were reconnoitered by the commanding officer of the 1st battalion of the 308th Regiment, Major Glein, a few days

ahead of time, after he had been briefed about the planned execution of the surprise attack in conjunction with maps at the corps command.

In the meantime, General Himer had taken up liaison with the German Minister, von Renthe-Fink. The Denmark Operation had to remain a secret even for him until 11 p.m. Only then the Minister was informed about the military events which were about to start. Minister von Renthe-Fink fitted himself into his difficult task quickly and in an excellent manner.

The few hours which were at the disposal of the Minister as Plenipotentiary of the Reich were filled out with the study of the memorandum and the miltary explanations and demands. The most important demands were put down on paper, in order to put the strongest possible pressure on the Danish Foreign Minister Munch at the coming talks. When General Himer had asked the State Secretary von Weizsaecker in Berlin whether he could be present at the presentation of the memorandum at 4 a.m. (5 a.m. German time), he had answered in the negative; therefore, General Himer had the Minister who wanted to take a Danish interpreter along, accompanied by Colonel Petersen to whom he had given detailed instructions for this mission beforehand.

Thus, Minister von Renthe-Fink, as plenipotentiary of the Reich, presented the requests of the Reich at 4 a.m. (5 a.m. German time) and explained to the Danish Foreign Minister that the Germans were moving into Denmark in order to prevent an imminent British attack on Norway and Denmark. They were coming as friends. Any resistance was useless and would be broken at once by armed force. The acceptance of the demands would have to take place immediately, as unnecessary losses would happen otherwise and the worst disadvantages would result for the State of Denmark.

In the meantime, the troops of Corps Command XXXI moved in several columns at 5:15 a.m. (German time) into Jutland. Wherever resistance was offered by the Danes, it was broken immediately. The surprise occupation of the citadel of Copenhagen, Gedser, bridge near Vordingborg, Korsoer, Nyborg, Little Belt Bridge near Middelfart succeeded completely.

The surprised Danish Government in Copenhagen could not agree right away on the acceptance of the German demands and probably tried to win time, too, in order to await developments. Under no circumstances could that be permitted. General Himer insisted on an immediate decision; otherwise the Danish Government would be made responsible for the victims resulting from the German measures, especially from a bombardment of Copenhagen from the air. The final decision—talks were under way

with the King—was still not forthcoming. When a renewed telephone conversation of Minister von Renthe-Fink with the Danish Government was answered in a delaying manner, General Himer, who, due to the negligence of the Danish postal system, was in permanent telephone connection with Group XXI in Hamburg since 5 a.m. (German time) which was maintained until about 7 a.m. (German time) requested the appearance of the bombers over Copenhagen in order to force the Danes to accept. The officer sitting at the telephone in Hamburg received the request. On this occasion a misunderstanding which might have resulted in serious consequences virtually occurred, due to the fact that the talks had to be in code. The officer at Group XXI said: "Well, then bombs are to be dropped right away!" General Himer answered: "For Heavens sake! They are only to appear over the city, in order to lend the necessary pressure, because the Government is still hesitating. Dropping of bombs only at request by the prearranged signal of the troops from the citadel!"

When the German bomber formations roared over the Danish Capital later on, they did not fail to make their impression—the Government accepted the German requests.

However, it claimed to be in no position to notify the Danish troops about the agreement that both sides were not to open fire. General Himer wanted to do that with the help of the radio. He personally asked Minister [Gesandter] Mohr (Danish Foreign Office) for it. Mohr tried to notify the radio station by telephone. He did not succeed because the station, as it turned out, did not operate before 7 a.m. (Danish time). And up to that time 30 valuable minutes were lost. As reports about fighting between German and Danish troops had already come in, the order to stop these fights had to be made known to the troops immediately, especially, in order to avoid needless victims.

In the meantime, the Danish Postal Office had become aware of its carelessness with respect to the telephone connection between Copenhagen and Hamburg. It had cut off telephonic communication. But since the radio station was set up in the citadel, General Himer was able to transmit the German terms to the troops by wireless and to request them to send emissaries to the Danish troops, since the government and the General Staff were not in a position to initiate such action themselves. Cessation of the fighting which had resulted in about 20 German and 30 Danish casualties was achieved. With these extremely small losses it was possible to bring all of Denmark into German possession.

Thanks to thorough preparations, the landing of German troops in Copenhagen and the occupation of the citadel and vicinity were successfully accomplished. The guards [Leibgarde] of the

citadel were taken by surprise—the police at the harbor had already been disarmed—and in the process of securing the immediate vicinity of the citadel the resisting soldiers of the Royal Bodyguard were put out of action. The guard lost several wounded men at this time. As the population of the Danish Capital went to their work early in the morning Copenhagen was firmly held by the Germans. Posted decrees of the King and the government called for strict maintenance of peace and order. German leaflets also served this purpose.

The Chief of the Danish General Staff, Brigadier General Goertz, who was captured in the citadel by the First Battalion of the 308th Regiment (I/308), was led before General Himer at around 6:30 (Danish time). General Himer expressed regret at having to make his acquaintance under such bizarre circumstances and told him that he was free, since his government had just accepted the German terms. A car had been placed at his disposal in which he might ride home. When asked if he, personally, had suffered annoyances and molestation when captured, he replied in the negative. General Himer then informed him that he had already requested that representatives of the Danish armed forces empowered to participate in the necessary negotiations appear at 10 o'clock.

Since a departure of the Danish King from the country had by all means to be avoided, General Himer believed it urgently necessary to get in touch with him as quickly as possible. He requested Minister von Renthe-Fink, to arrange an immediate audience with the King—the sooner the better!

General Himer was received by the King on 9 April, being introduced by the Reich Plenipotentiary, von Renthe-Fink. The 70-year-old King appeared inwardly shattered, although he preserved outward appearances perfectly and maintained absolute dignity during the audience. His whole body trembled. He declared that he and his government would do everything possible to keep peace and order in the country and to eliminate any friction between the German troops and the population. He wished to spare his country further misfortune and misery. General Himer replied that personally he very much regretted coming to the King on such a mission but that he was only doing his duty as a soldier. It was Denmark's misfortune to be placed between the two great warring powers, Germany and England, and Germany wished to prevent England's plunging the country into war and devastation. We came as friends, etc. When the King then asked whether he might keep his guard, General Himer replied—seconded by Minister von Renthe-Fink—that the Fuehrer would doubtless permit him to retain it. He had no doubt about

it. The King was visibly relieved at hearing this. During the course of the audience, which lasted one half hour, the King became more at ease and at its conclusion he addressed General Himer with the words: "General, may I, as an old soldier, tell you something? As soldier to soldier? You Germans have done the incredible again! One must admit that it's magnificent work!"

On 9 April at 10 o'clock the Danish Chief of the General Staff, General Goertz, reported to General Himer as head of the Danish armed forces delegation, consisting of officers of the army and navy, including the air force. The first meeting began at 10:10 o'clock, under the chairmanship of General Himer. The parley was conducted smoothly and in very correct form. (Is true also of the subsequent conferences.) While all due respect was shown for Danish honor and the Danish representatives were treated with courtesy, they were not left in doubt as to the necessity for carrying out the demobilization rapidly and thoroughly or regarding further German demands and desires. General Himer abstained *on principle* from making any written covenants with the Danes during these conferences but only verbal ones. In this way he wished to avoid premature decisions on the German side in regard to definite points, numbers, etc. It also kept the Danes more completely in hand. Since the negotiations were supposed to be conducted in a consistently friendly but very determined tone, it was really a matter of keeping the Danes in good humor and of gaining their confidence to a certain extent. This policy has stood the test of time very well. The Danes have faithfully carried out all that was demanded of them. They have also felt free to express their own special desires, some of which could be granted without prejudice to German interests. General Goertz showed himself to be a very clever and cool negotiator. He represented Danish interests in a correct and objective fashion.

Seen as a whole, the undertaking against Denmark succeeded so well and at cost of such light sacrifices because it had been splendidly prepared for in every respect. The secrecy fundamental to success was perfectly preserved; knowledge of the undertaking was limited to the circle of those persons who had of necessity to share it. As the undertaking got under way, swift and independent action prevented heavy damage to the German troops as well as to the Danish armed forces and the population, thus promoting between the two countries good relations of great political importance for the future. Even though the events in Denmark are mentioned only twice in communiques of the High Command of the Armed Forces, they should not for this reason be overshadowed, in the writing of history, by the battles in

Norway, which, as such, were larger and more severe. They were the prerequisite for the smooth execution of the Norway undertaking and must be evaluated as such. The fact that they required such slight losses rebounds to the glory of German leadership, from the political as well as from the military standpoint.

Certified as a true rendition: [Wiedergabe]

[Signed] GOES
Senior Archives Counsellor, Deputy
Chief Custodian of Army Archives with the
Commander of the German Troops in Denmark

(Written by an officer)

TRANSLATION OF DOCUMENT NG-3223
PROSECUTION EXHIBIT 504

DECREE OF THE FUEHRER CONCERNING THE EXERCISE OF GOVERNMENTAL POWER IN NORWAY, 24 APRIL 1940, SIGNED BY HITLER, GOERING, DEFENDANT LAMMERS, KEITEL, AND FRICK, AND AUTHORIZING DEFENDANT LAMMERS TO ISSUE IMPLEMENTING AND SUPPLEMENTARY REGULATIONS "IN THE CIVILIAN SECTOR"

1940 REICHSGESETZBLATT, PART I, PAGE 677

Decree of the Fuehrer concerning the Exercise of Governmental Power in Norway, 24 April 1940

The Nygaardsvold government, by virtue of its proclamations, its conduct and its initiating of military action between Norway and the German Reich, has created a state of war. In order to safeguard peace and order in the Norwegian territories under the protection of German troops, I hereby give the following orders:

Article 1

The occupied Norwegian territories are to come under the jurisdiction of the "Reich Commissioner for the Occupied Norwegian Territories."* His headquarters are to be in Oslo. The Reich Commissioner is to be the custodian of Reich interests and to exercise supreme governmental power in the civilian sector.

Article 2

The Reich Commissioner can make use of the Norwegian authorities and of the Norwegian Administration Committee for the execution of his orders and for administrative purposes.

* Reich Commissioner Josef Terboven submitted regular reports concerning the activities of his office to defendant Lammers. A report of 17 October 1940, Document NG-1583, Prosecution Exhibit 509, covers the period from the beginning of Terboven's duties as Reich Commissioner to 17 October 1940. Because of space limitations this and similar documents are not reproduced herein.

Article 3

(1) The hitherto existing law remains in force wherever it is compatible with the occupation.

(2) The Reich Commissioner can issue laws by decree. The decrees will be published in the official Gazette for the occupied Norwegian territories.

Article 4

The commander of the German troops in Norway exercises military executive powers, his requests will be carried out in the civilian sector exclusively by the Reich Commissioner. He has the right to order measures necessary for the operations of his military mission and for the military security of Norway, in keeping with military requirements.

Article 5

The Reich Commissioner can make use of German police organs for the execution of his orders. The German police organs are at the disposal of the commander of the German troops in Norway as far as necessary in the interest of military requirements and whenever it is compatible with the duties of the Reich Commissioner.

Article 6

The Reich Commissioner is directly responsible to me and receives his guidance and directives from me.

Article 7

I appoint Oberpraesident Terboven* Reich Commissioner for the Occupied Norwegian Territories.

Article 8

Regulations for the implementation and supplementation of this decree will be issued in the civilian sector by the Reich Minister and Chief of the Reich Chancellery and in the military sector by the Chief of the OKW on the basis of my directives.

Berlin, 24 April 1940

The Fuehrer
ADOLPH HITLER

The Chairman of the Ministerial Council
for Defense of the Reich
GOERING
Field Marshal

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

The Chief of the High Command of the Armed Forces
KEITEL

The Reich Minister of the Interior
FRICK

* Terboven, in addition to his position in Norway, also was Gauleiter and Oberpraesident (Chief of Provincial Administration) of Essen.

TRANSLATION OF DOCUMENT NG–2948
PROSECUTION EXHIBIT 508

MEMORANDUM BY SCHEIDT OF THE CONFERENCE ON 16 AUGUST 1940 BETWEEN HITLER AND QUISLING IN THE PRESENCE OF DEFENDANT LAMMERS, REICH LEADER MARTIN BORMANN, AND SCHEIDT

Memorandum of the conference between the Fuehrer and State Counselor Quisling on 16 August 1940

Attended by: 1. The Fuehrer, 2. State Counsellor Quisling, 3. Reich Minister Dr. Lammers, 4. Reich Leader Martin Bormann, 5. Reich Office Chief Scheidt.

The memorandum was written later on, without notes having been taken during the conference. The contents are to be understood accordingly.

The Fuehrer asked State Counsellor Quisling to make his report.

Quisling began by explaining the situation into which the events of 9 April had forced him. He mentioned that he had actually been prepared for such a development but found himself in a critical position, since the old government had been able to leave the country. Since he was the only leader of a legal party in Oslo who had not left the country after the German troops had entered, he took over the power to avoid anything worse. He had regarded it from that point, that by taking over the government, he will obtain Norway's independence, which had been carelessly placed at stake through the conduct of the King and his government.

His intentions were at first successful. The will of resistance of the mobilized army against Germany was not uniform, since the main part of nationally minded soldiers, on account of propaganda by the Quisling government, began to doubt the cause represented by the liberal parties and consequently by the Western Powers. All parliamentary parties, from the Marxist to the Conservative Party were dissolved. The trade unions were ready to enter into negotiations, the press adopted the policy ordered by the Quisling government.

This healthy and necessary development was later interrupted through measures taken by German offices. These, not knowing the situation and circumstances, have become victims of the scheming efforts of the old party clique.

Quisling, himself, had warned against the consequences of these intended measures. All the same, he had been asked to resign on 15 April 1940 and an allegedly legal government representation was put in his place. Through this measure, not only the position

of his party, but also the German position in Norway deteriorated. The legality of this existing Administrative Council is only fictitious, the prerequisites of its convocation have not been complied with. It can be proved that it does not work in legal collaboration with Germany, and particularly the uncertain and obscure situation in Norway has contributed to the deterioration of public opinion against Germany in this respect. Nothing has changed, since Reich Commissioner Terboven has arrived in Norway. Although he negotiated with Quisling, he also maintained active contact with representatives of the old system and has even the intention to recall the Storting in order to have the old party representatives confirm the new Norwegian Government and depose the King. It is unnecessary to recall the Storting for the purpose of forming a new government or to depose the King, as well as to undertake all necessary steps according to constitutional law. This institution is in any case not a legal one, and therefore the legality of all decisions made by the Storting since fall 1939 and from there on, is extremely doubtful. Whoever knows the Norwegian people and its mentality, will acknowledge that it dislikes nothing more than obscurity and inconsequence. All great changes have been achieved in Norway for two decisive reasons—First, by reasoning with the Norwegians, and second, if this should bear no result, by forcing the issue. This happened in the case of the political unity of Norway, the introduction of Christianity, and the propagation of Protestantism (Reformation). Quisling advises to attain the object point blank and not to beat about the bush. Political sidetracks are unworthy in the face of the Norwegian people but particularly of the Greater German Reich.

Reich Commissioner Terboven has always pursued the policy of supporting the Nasjonal Samling secretly. He is afraid that it will be compromised if it receives German aid. He compares this case with the occupation of the Ruhr. This is incorrect!

To the question of the Fuehrer, as to what Quisling proposes now, he answered: Formation of a Norwegian Government with the Nasjonal Samling as majority. Whether this will be independent or under Quisling's leadership is at the moment of no importance. Dissolution of the Storting and then clearcut and effective work for a future collaboration with Germany.

The Fuehrer then began to speak and stated the following:

The whole Norwegian undertaking had been prepared in a short time. In December, after Quisling had drawn attention to the menacing danger, he had considered the entire development in the north with greater care. After the Finnish peace, one had at first the impression, as if from a practical point of view, it would

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be impossible for the Allies to extend the warfare in Scandinavia. In the course of March the moments of danger increased more and more and in the beginning of April the Fuehrer decided to step in since otherwise there would have been the absolute danger that the Allies would arrive in Norway before the German troops. This had to be avoided at any cost. On the other hand, if he had found the English already in Norway, he would have been able to defeat them, but only by using means, which in comparison would have been infinitely greater than those actually used on the part of Germany in the Norwegian undertaking.

After the occupation, it was unfortunately not possible to persuade the Norwegian King to adopt a similar reasonable attitude as the Danish King. The old system in Norway had chosen to fight and now they had to bear the consequences.

The German political representatives had always wanted the best, but they were not sufficiently acquainted with the circumstances and it is quite clear that Herr Braeuer and the other representative (the name Habicht was not mentioned) had been deceived by Norwegian lawyers.

[Handwritten marginal note] "You may have heard what happened in these rooms. The career of these gentlemen is definitely ended."

The Fuehrer himself had given specific instructions that Quisling be included in a so-called legal government. But later on he was suddenly forced to notice that in Norway no government but an administrative committee had been created for the territories which were occupied by German troops. He, the Fuehrer, did not need an administrative council in the occupied territories. What he had wanted was a Norwegian Government.

Since what has happened cannot be changed anymore, Terboven had been sent to Norway. Quisling should not think that Terboven did not wish him well. Terboven had always explained to the Fuehrer that the Nasjonal Samling is the only movement which is of any use with regard to collaboration. On the other hand, Quisling must understand that it was difficult for the representatives to adapt themselves completely to foreign circumstances. A comparison between the best organized party in the world, namely, the NSDAP, and national movements abroad is of course impossible. One cannot compare a movement, such as Quisling's, with the existence and completeness of a central membership file. He also shared Quisling's opinion that the policy had to be clearly directed towards a goal. One of the next days he would call Terboven and would discuss this problem with him. It was not correct to say that aid by Germany for the Nasjonal Samling would compromise this movement. A Great-Germanic

movement could never be compromised through aid extended by the Greater German Reich.

He, the Fuehrer, only wished to bring about orderly conditions in the north. After having repeatedly submitted suggestions to the English with regard to a reorganization of Europe, he saw himself forced, against his will, to wage war against the English. He was now in the same position as Martin Luther, who did not want to go against Rome, but was forced into this fight. In this war he would destroy the old England and alone undertake the task of creating a new order in Europe. He was merely interested in northern Europe, the south of Europe was of no importance. The Mediterranean countries have always brought about the death of the Germanic people.

He is indebted to Quisling for drawing his attention to a development which might have easily proved to be fatal for Germany in this war. How acute this danger was he realized only at the moment when the secret documents of the Allied High Command were found in France. He knew that Quisling had acted for a great cause. A new, young Norway would learn to appreciate this and he could think of a young Norway only under the leadership of the Nasjonal Samling and inextricably tied to Quisling.

Quisling could rely on him.

Berlin, 4 September 1940

Sch/M.

[Signed] SCHEIDT

TRANSLATION OF DOCUMENT NG-3224
PROSECUTION EXHIBIT 510

DECREE ESTABLISHING A CENTRAL OFFICE FOR THE OCCUPIED NORWEGIAN TERRITORIES, 12 DECEMBER 1941, SIGNED BY DEFENDANT LAMMERS

1941 REICHSGESETZBLATT, PART I, PAGE 765

Decree Establishing a Central Office for the Occupied Norwegian Territories, 12 December 1941

As a supplement to the Fuehrer Decree of 24 April 1940 (Reich Law Gazette I, page 677) concerning the Exercise of Governmental Powers in Norway,* the following is herewith decreed in accordance with Article 8 of this decree:

A central office for Norway is herewith established in the Reich Ministry of the Interior. The head of the central office is Dr. Stuckart, State Secretary in the Reich Ministry of the Interior.

* Document NG-3223, Prosecution Exhibit 504, reproduced earlier in this section.

The Central Office for Norway must provide for uniform cooperation—by the Supreme Reich Authorities with each other and with the Reich Commissioner for the Occupied Norwegian Territories, as determined by Norway's requirements. Within the range of those duties, it must effect a settlement between interests of the Supreme Reich Authorities and those of the Reich Commissioner, and it must advise the Reich Commissioner and obtain support for him from the Supreme Reich Authorities. Working together with the Supreme Reich Authorities concerned, it is to supervise the affairs of the personnel assigned to the Reich Commissioner.

Fuehrer Headquarters, 12 December 1941

The Reich Minister and Chief of the Reich Chancellery

DR. LAMMERS

TRANSLATION OF DOCUMENT WOERMANN 121-C WOERMANN DEFENSE EXHIBIT 56

AFFIDAVIT OF WERNER VON GRUNDHERR, 25 MAY 1948, CONCERNING THE LIMITED KNOWLEDGE OF FOREIGN OFFICE OFFICIALS OF THE PLANNING OF THE INVASION OF NORWAY AND DENMARK

I, Dr. Werner von Grundherr, born 22 January 1888 in Nuernberg, residing in Weiherhaus, Post Office Feucht, with knowledge of the significance of an affidavit, hereby make the following declaration on oath for the purpose of being submitted before American Military Tribunal IV, Case No. 11, in Nuernberg.

I was never a member of the NSDAP and belonged to none of the incriminated organizations. From about 1939, I was, as a non-Party Member, under a ban as far as promotion was concerned.

From 1934 to April 1945, I was Referent for the Scandinavian countries in the Political Division of the Foreign Office. After the occupation by German troops in 1940, Norway was eliminated from the sphere of work of the Foreign Office.

In spite of my position, I learned nothing in advance of the German action against Denmark and Norway on 9 April 1940, either directly or indirectly. Neither State Secretary Baron von Weizsaecker, nor the head of the Political Division, Under State Secretary Woermann, nor the then Deputy Chief Political Division, Herr von Rintelen, had told me one word or given me any indication of it. Nor did I hear anything about it from any other quarter outside of the Foreign Office. I was therefore utterly

astonished and confounded when, on 9 April 1940, on coming at 9:20 a.m., as usual, to the daily press conference in the Foreign Office, I found the Berlin foreign press representatives also gathered there, who, extremely surprised and perplexed at this latest event which had just been officially announced to them, at once started to speak to me about it. I could not prevent their reading on my face my own complete surprise and confusion. Furthermore, our legations in Oslo and Copenhagen were just as completely surprised by the action as myself; as I learned later, both Ministers were informed by special couriers of the Foreign Office only a few *hours* before the occupation. The fact that neither Herr von Weizsaecker, nor Herr Woermann, nor Herr von Rintelen had informed me, even if only by implication, I ascribe to their having either been informed themselves only at the very last moment by Herr von Ribbentrop, or to their having received explicit orders from him to keep silence towards everyone. Neither of these gentlemen ever asked any questions or requested any information of me from which it was to be concluded that they had been informed of the action beforehand. The action against Norway and Denmark was therefore never worked out in the routine manner in the Political Division of the Foreign Office. I do not even know to this day who drafted the German notes to the Danish and Norwegian Governments and who later worked on them.

This seems to suggest to me that these notes were drafted by Hitler himself or by the High Command of the Armed Forces.

After the Reich Commissioner Gauleiter Terboven, who was directly subordinate to Hitler, took over affairs in Norway, the Foreign Office had no further influence on the development in Norway.

Nuernberg, 25 May 1948

[Signed] DR. WERNER VON GRUNDHERR

EXTRACTS FROM THE TESTIMONY OF DEFENDANT LAMMERS*

DIRECT EXAMINATION

* * * * * * *

DR. SEIDL (counsel for defendant Lammers): * * * With the permission of the Tribunal I now pass to prosecution document book 36. In this document book, the prosecution submitted all documents which were supposed to prove that this defendant participated in the planning and preparation of a war of aggression against Norway.

* Further extracts from the testimony of defendant Lammers are reproduced earlier in sections VI D and VI E and later in section VI H, this volume and in volume XIII, sections IX B 3 and XI C 2.

The first document in this series is 1639–PS.* It was submitted as Prosecution Exhibit 503. It is on page 1 of document book 36. This document consists of a letter and a file note from Schickedanz, whom we have already mentioned, dated 21 December 1939. I am having a photostat of the letter shown to you.

Does this document come from the Reich Chancellery and can you remember having received such a letter from Schickedanz?

DEFENDANT LAMMERS: In my opinion this document cannot have originated from the Reich Chancellery; otherwise it would have identification file numbers and similar things; and, as I see, the letter is not signed. In the covering letter it only says that the person sending it is taking the liberty of sending me a file note about subjects for report. It looks as though the sender of this file note had been Schickedanz. The question whether I can remember it is one that I can answer neither in the affirmative nor in the negative. I would like to comment on it in a little more detail because I can't answer it one way or the other because I know something about the contents of this but today no longer say only from memory whether I learned of it from the file note—if I actually did receive it—or whether my memory rests only on the verbal information which I got from Schickedanz at the time.

Q. Don't go into too much detail, please, limit yourself to essentials.

A. This file note of Schickedanz contains notes of oral report of 19 December 1939. Now, I remember and because of this document I have refreshed my recollection that in the fall of 1939, after the end of the Polish Campaign, Schickedanz—but I don't remember whether it was verbally or in writing—informed me that, according to information he had received there was a danger that England, by a *coup de main,* would occupy Norway and, in accordance with my duty, I passed this information on to the Fuehrer. The Fuehrer replied that he would discuss the matter with the military authorities. When a few days later, I asked him if I should do anything in this matter—anything as far as the Foreign Office or Schickedanz were concerned—the Fuehrer said "No" and he said that he had talked to the Commander in Chief of the Navy, Raeder, and the Chief of the High Command of the Armed Forces [OKW], Keitel. He still did not see any danger, nor did he attach any importance to extending the theater of war. He hoped that such an extension would not take place but, of course, the military agencies could deal with the matter. Shortly afterwards the Commander in Chief of the Navy, Raeder, confirmed that he had talked to the Fuehrer about this matter.

* Reproduced in part earlier in this section.

Q. Witness, let us assume that you actually did receive Schickedanz' letter. Did you attend the conferences at Rosenberg's which are mentioned in Schickedanz' file note?

A. No. I am positive of that. It's also shown by the file note which did not list me among those present.

Q. Did you attend the sessions in which Raeder and Keitel made their reports to the Fuehrer?

A. No.

Q. Were you in any other way concerned in the planning of the attack on Norway?

A. No.

Q. Did you know anything at all about the fact that a German attack on Norway was planned?

A. I knew nothing of an attack on Norway. I only found it natural that one should consider the question as to how one could prevent a British *coup de main;* so I dutifully reported about it, but I was no longer concerned with it afterwards.

Q. Schickedanz' file note, which we just mentioned, contains reference to Raeder's report about the present significance of Norway in the war in the following words: "In his opinion it was a decisive position."

In view of these words, didn't you have to interpret that as a planned German attack on Norway?

A. That is the only part of Raeder's report which could be gathered from this document. If I actually did receive this one short phrase, in the nature of a slogan, at the time then I am sure that I considered it to be correct that Norway did hold a decisive position. This remark couldn't tell me more than that. Furthermore, it could only indicate that the question was being discussed as to what should be done if this anticipated attack by the British on Norway were really to be expected with a fair degree of certainty. I, however, did not have to deal with this question.

* * * * * * *

Q. Did you know Quisling before the occupation of Norway or were you in contact with him in writing or in other ways?

A. Before the occupation of Norway I did not know Quisling personally nor did I correspond with him, nor did I have any other contact.

Q. Did you know any other of the Norwegians concerned before the occupation of Norway or were you in touch with them in any other way? For instance, Hagelin?

A. That question too I must answer in the negative.

Q. Did you attend the meeting of the Nordic Association where Quisling appeared in public for the first time?

A. I was not present.

Q. Did you know anything about courses which Rosenberg held for members of the Nasjonal Samling?

A. I did not know of that.

Q. Did you know of connections between Quisling and Goering, Dr. Winkler, or other personages, in connection with financial support?

A. I did not know of that either, that any such contacts existed, much less did I bring about any such connections.

Q. Were you present when in the summer of 1939 the Fuehrer received Quisling?

A. No. I was not at these receptions.

Q. When did you hear of these receptions for the first time?

A. I heard of that only after the occupation of Norway when these questions were discussed.

Q. As we know from the documents now, the military handling of the operation lay with a military special staff, whereas its political handling was with Rosenberg; and the financial responsibility was with the Foreign Office. Did you participate in any of these fields?

A. Neither in discussions nor by correspondence did I participate. I can't remember anything of the kind and the connections with Quisling, as this document and others in the same book show, were maintained by Rosenberg through his Amtsleiter Scheidt.

Q. How do you explain the fact that you didn't know of any of these plans?

A. That can be explained only by the fact that these plans were kept secret and this secrecy was preserved strictly, as far as I was concerned too. May I briefly refer, not only to the three commandments of the Fuehrer which I have already mentioned, but also to the remark which appears in one memorandum which was submitted in Document 004–PS, Prosecution Exhibit 506.* In this memorandum which apparently comes from Rosenberg's sphere, it is once again expressly pointed out that the strictest secrecy has been ordered in this matter. After all, in a letter and here the date is of great interest, which the Chief of the OKW sent to the Reich Foreign Minister on 3 April 1940—that is shortly before the Norwegian invasion—this letter expressly refers to Fuehrer instructions and in view of these Fuehrer instructions the request was made that the circle of persons participating in the preparations should be restricted to the utmost limit and what is of special importance is that it is expressly said, "apart from the Foreign Office and the OKW other supreme Reich agencies, or any other agencies, as a matter of principle,

* Reproduced in part earlier in this section.

are not to be called in." That means not only that they are not to be called in but that in the past they were not called in either. This letter is in Document P–629,[1] Prosecution Exhibit 212 in book 5, page 95 of the German. I am afraid I have not got the English page reference. What it says here about secrecy is supported by a whole series of documents in defense book Woermann 2–A. My remarks about secrecy are supplemented in particular by the testimony of Ribbentrop before the IMT. This shows that even the Foreign Minister heard of these plans only at the beginning of April when the Fuehrer thought it necessary for the operation to be initiated by diplomatic notes.

* * * * * * *

Q. I come now to two documents, the only ones dealing with the time before the occupation of Norway. First of all, Document 004–PS, Prosecution Exhibit 506, document book 36, on page 10 of the English. This is a copy headed "The Political Preparation of the Norway Action." I am having the photostat of this document submitted to you.

Does the photostat contain receipt stamp or file note of the Reich Chancellery? Any remark of yours? Or any initial?

I have to ask you this because the prosecution claims that the memorandum was sent to you to submit to the Fuehrer. Can you remember?

A. The document concerning the political preparation of the Norwegian operation I have already looked at very carefully, so I needn't look at it now. I can tell you that it might perhaps be a Rosenberg memorandum and according to the legend after the heading it was also sent to other agencies.

The prosecution's claim that it was sent to me to submit to the Fuehrer is one which I cannot find substantiated in this document in any way. There is no note that it was received, no code numbers from the Reich Chancellery, no other notes or figures or initials. Whether we got it or not, whether I submitted it or not, is something I can't say today.

Q. The other document is Document 007–PS, Prosecution Exhibit 207,[2] found in document book 36, page 48 of the English. This is a brief activity report of the Nazi Party's Foreign Political Office from 1939 to 1943. In this document, as in the preceding one, you are mentioned. It says that in June 1939 Schickedanz had sent you a memorandum to submit to the Fuehrer. I ask you: Can you remember that?

A. I can't say for certain. In the case of memoranda of such length, I can't say after all these years whether these reached me.

[1] Not reproduced herein.

[2] Reproduced in part earlier in this section.

We received all reports of memoranda; whether we got these, I can't say. If there were some sort of filing note from the Reich Chancellery; if they had my initial or any kind of identification—then, of course, I could more easily say whether we got them or not. I would be able to tell you more about it.

Q. I have just had the photostat of this document, 007–PS, shown to you, Prosecution Exhibit 207. Are you now in a position to answer my question?

A. Exactly the same thing applies to this document. That is signed "Rosenberg." So it seems to have been written by Rosenberg but this signed document doesn't come from the Reich Chancellery either, although it is to be assumed that in the case of such documents the one bearing the name in full is the one which was sent out. But I can't give any definite testimony here.

Q. This memorandum you hold in your hands now was not attached to 004–PS, Exhibit 506. Is it possible that this is enclosure 1, which is mentioned in Document 007–PS?

A. In both of these documents—Prosecution Exhibits 506 and 207—there is mention of a memorandum of June 1939, with a remark that I had submitted it to the Fuehrer. I have already talked about that. In both documents, however, just this very memorandum is missing, which is supposed to have been given to me. One might conclude from the contents of both documents that they are talking about the same memorandum but I can't possibly say anything about the memorandum that I am supposed to have received in June 1939, unless it is shown to me.

Q. You say you can't remember receiving this memorandum?

A. No. Not with the best will in the world. The only thing that I can more or less reconstruct from these two documents is that they may be talking about the same memorandum, but I can't reconstruct the contents. I can't do that. If I should have received it, however, then I presume that it will have concerned the political situation in Norway. But at that time—in June 1939—I, at any rate, thought no more of a war of aggression against Norway than I did of any other war of aggression. Nor can I imagine that Rosenberg or Schickedanz, in June 1939, were planning a war of aggression against Norway. At that time, if one had thought there might be a war at all, one thought only of the East—but not of Norway.

Q. And what have you to say about these two documents themselves—Exhibits 506 and 207—as they lie before you now?

A. Well, I can only say that these two reports were written after the occupation of Norway, the former allegedly in June 1940, and the second is Rosenberg's working report for the period 1940 [1933] to 1943. So, at the most, it could have been written

in 1943 or at the beginning of 1944. In other words, both reports date after the occupation.

Q. Well, what are you trying to say by that?

A. I mean that you must read both reports bearing in mind the date when they were written. Both reports, especially the second one signed by Rosenberg himself—were obviously written with a view to particularly stressing Rosenberg's services in the Norwegian Operation. If the prosecution charges me with having knowledge of plans with regard to the Norwegian operation then these documents at the best might prove that I heard of such plans after they were carried out, that is, after the occupation of Norway, between 1940 and 1943. That's something I can't deny.

* * * * * * *

Q. Now I come to Document NG–3223, Prosecution Exhibit 504.* It is in book 36, page 5 of the English. That is a Fuehrer decree concerning the exercising of the powers of government in Norway, dated 24 April 1940. Was this decree issued before or after the beginning of the Norwegian operations?

A. After.

Q. Was it prepared in the Reich Chancellery before the occupation of Norway?

A. No, I can say that most definitely.

Q. Why did you cosign the decree, and I think here you can give us a short answer?

A. For the reason given before uniformly.

Q. In Article 8 of this decree you are empowered to issue the regulations for the civil sector made necessary for the enforcement and implementation of this decree in accordance with the Fuehrer's directives. What is the reason for that?

A. To be quite brief and referring to my former remarks about such powers, in the first place to relieve the Fuehrer's burden in administrative questions of secondary importance; and second executory ordinances were as a matter of principle never on the level of a head of state but always were handled on a slightly lower level.

Q. Could you issue such supplementary regulations on your own authority?

A. Externally, yes. But internally, I was bound by the Fuehrer's guiding directives. Since he didn't give me any such guiding directives I was in fact bound by his instructions issued in individual cases, so that if any case arose and that was very rare, I had to ask him first and could issue an executory ordinance only on the basis of a specific instruction.

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* Reproduced earlier in this section.

Q. You just differentiated between guiding directives and specific instructions. Can you, in one short sentence, explain to the Tribunal the difference between these two terms in German administrative practice?

A. Guiding directives are general. Instructions are specific and refer to one individual case.

Q. In view of the importance of the matter, I now come to the authority extended to you under Article 8. Article 8 of this decree for Norway says and the quotation is on page 6 of the English "Regulations for the execution and supplementation of this decree will be issued in accordance with my directives for the civilian sector by the Reich Minister and Chief of the Reich Chancellery and for the military sphere by the Chief of the OKW." Since you helped formulate this provision, the same or similar one is contained in other Fuehrer decrees too, I attach importance to your explaining the significance of it, especially with respect to the actual practice of the time. May I draw the Tribunal's attention to the fact that this provision recurs especially in the Fuehrer decrees concerning the setting up of civil administrations in the Netherlands and Belgium, to which we will refer later. The sense of the authorization always comes to the same thing; there are only some slight differences in the actual text. For instance the other decrees say instead of "authorization to issue regulations," that the Chief of the Reich Chancellery is entitled to issue legal and administrative ordinances. Furthermore the Norwegian decree mentions "guiding directives" and the decree about the Netherlands too, while in the decree concerning Belgium it mentions "instructions," so I think it would be just as well to deal with these matters in general and it will save us a lot of time. Witness, first of all tell me what were the factual limits of these powers given to you in your capacity as Chief of the Reich Chancellery to issue legal and administrative ordinances?

A. The limitation is shown quite clearly by the fact that the Reich Minister and Chief of the Reich Chancellery is empowered to issue the ordinances required for the execution and supplementation of this decree; that is, it is only in matters of the execution and implementation of these very regulations concerning the setting up of a specific administration that an ordinance may be issued. That is the first limitation which lies in this authorization from the very start.

Q. May I interrupt you, Witness, to clear something up which seems to me to be of special importance? Is it correct then to say that the Chief of the Reich Chancellery was limited in his power to issue ordinances to the contents of the decree itself, or

was he generally authorized to issue provisions of substantive law as such for the occupied territory concerned, for instance, to give an example, a legal ordinance imposing certain heavy punishments on acts of terror and sabotage?

A. No. The authorization given certainly did not cover that. The authorization is quite definitely limited to the issuing of provisions concerning the setting up of the civil administration which is itself an administrative matter, so the authorization only extends to organizational provisions concerned with the setting up of the civil administration in question.

Q. Who then issued the provisions of substantive law if such became necessary, of the kind that you mentioned just now for instance?

A. You mean punishments imposed for acts of terror and sabotage? Only the Reich Commissioner was responsible for that because other provisions of the decree expressly gave him the powers to enact legislation. For instance, in the Norwegian Decree, Article 3, and in the Belgian Decree, section IV, these Reich Commissioners could on their own part legislate in their own territory. My executive ordinances were not so far-reaching that I could at will issue any regulations I liked in the occupied territories.

Q. I think that is enough to show the limitation of your powers, but you were speaking of the first limitation. Were there any others?

A. Yes. They consisted in my being dependent in issuing such regulations either on directives or instructions of the Fuehrer. I have already mentioned what the difference is. In the Norwegian Decree for instance it says, in the Fuehrer's explicit wording, "in accordance with my directives." If I did not have any directives, however, it amounted to instructions, simply because I had made the experience in the Norwegian Decree and in the Netherlands Decree that where there is mention of directives, I just didn't receive any. For that very reason in the Belgian Decree I thought I might just as well put in "according to the Fuehrer's instructions."

Q. I don't know whether I have understood you correctly, but according to what you say these ordinances of the Chief of the Reich Chancellery appear not to have been his own ordinances at all but those of the Fuehrer.

A. That is partly right and partly wrong. Externally they were ordinances of the Chief of the Reich Chancellery but since they were issued on the Fuehrer's instructions, they were internally, of course, Fuehrer instructions.

Q. Why in that case did not the Fuehrer himself issue these ordinances?

A. I have already said for one thing that he wanted to be relieved of matters of lesser importance. Executive ordinances were not on the level of the head of state but because of the direct subordination of the Reich Commissioners in the occupied territories to the Fuehrer, there was no Reich minister who was really directly responsible, and since the Fuehrer for his part didn't want to issue such executive regulations and since on the other hand he didn't want to make the Reich Minister and Chief of the Reich Chancellery departmentaly responsible whereby he would have made him superior to the Reich Commissioners, the solution was found which made the former possible but excluded the latter. By giving the Reich Minister and Chief of the Reich Chancellery the authority to act in accordance with the Fuehrer's directives, the Fuehrer was relieved, but the Reich Minister and Chief of the Reich Chancellery was not made superior to the Reich Commissioners because it said expressly that he was bound to the instructions or directives of the Fuehrer; and so nothing was changed in the Reich Commissioners' direct subordination to the Fuehrer, and I was not made superior to them.

Q. Were any executive ordinances in Norway, in accordance with this Fuehrer decree, issued by you at all?

A. Only a single one, a purely organizational ordinance concerning the setting up of a central office in the Reich Ministry of the Interior.

Q. And how about the occupied Netherlands?

A. As far as I remember, I didn't issue a single executive ordinance.

Q. And how about Belgium?

A. There I am certain that none was issued.

Q. For the record, I would like to say that the decrees for the Netherlands and Belgium are Document 1376–PS, Prosecution Exhibit 514,[1] book 36, page 68 of the English; and Document 1945–PS,[2] book 36, page 79 of the English. You also mentioned you issued a directive ordinance in the case of Norway, is that right?

A. Yes.

Q. I would like to say for the record that this is Prosecution Exhibit 510, Document NG–3224,[3] page 127 of the German. Unfortunately I don't have the English page reference at the moment. Anyway, it is Exhibit 510.

[1] Document 1376–PS, Prosecution Exhibit 514, Decree of the Fuehrer and Reich Chancellor on the Union of the Territories of Eupen, Malmedy, and Moresnet with the German Reich, dated 18 May 1940. 1940 Reichsgesetzblatt, Part I, page 777. This decree is not reproduced herein.

[2] Document 1945–PS, Decree of the Fuehrer concerning the Establishment of a Civil Administration in the Occupied Territories of Belgium and Northern France, dated 13 July 1944. This document was not offered in evidence and is not reproduced herein.

[3] Reproduced earlier in this section.

JUDGE MAGUIRE, PRESIDING: That is page 28–A in the English.

DR. SEIDL: Thank you, Your Honor. This document, Witness, sets up a central office for the occupied Norwegian territories and it is dated December 1941. Was this ordinance issued in accordance with the Fuehrer's directives?

DEFENDANT LAMMERS: It was issued on the basis of an instruction from the Fuehrer and kept within the framework of the powers given to me. It was definitely of a purely organizational nature. It was considered necessary for organization.

Q. Who thought it was essential?

A. Not me, but the Reich Commissioner Terboven up there wanted it. He reported to the Fuehrer without my being there and got the Fuehrer's approval.

Q. So you didn't even suggest it, as one might assume?

A. No.

Q. Did you have any misgivings about its enactment on the basis of international law?

A. I had no misgivings at all. It was perfectly suitable on the basis of international law and incidentally it proves that, contrary to the prosecution's claims, I did not coordinate everything in the occupied territories and other agencies were competent too.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT VON WEIZSAECKER*

DIRECT EXAMINATION

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DR. BECKER (counsel for defendant von Weizsaecker): When did you, first of all, hear of the plans concerning the Scandinavian expedition?

DEFENDANT VON WEIZSAECKER: An attempt is now being made to prove that these plans were known to me before they were actually enforced—that is, on 6 April 1940—and that they were brought to my attention in an official capacity at that time. That is to say, that they were brought to my attention 3 days before they were actually implemented. It is right to say that officially I heard nothing of these plans at an earlier stage; nevertheless, I am inclined to be insulted by this challenge and this reproach.

Q. Insulted, why?

A. Insulted because I am being reproached with a great deficiency of political perspective. I'd have to be ashamed even

* Further extracts from the testimony of defendant von Weizsaecker are reproduced above in sections VI D and VI E and below in section IX B 8.

today; even on the 6 April 1940 I would not have been surprised by this information, which is a claim that others may and do claim in their behalf. First of all, this would have meant a failure on my part to work for peace effectively. All attempts in favor of peace would have no sense at all, unless I knew, in good time, that danger was imminent. And if I hadn't had knowledge of the existence of such danger, it wouldn't have been possible for me to undertake any preliminary steps or measures. There might have been some misunderstanding of the statement I just made; therefore I would like to say that in saying that other people may claim in their favor that it was as late as 6 April that they were informed, to their surprise, of this new state of affairs. Of course, I'm not referring to any person here in this courtroom.

Q. Now, since when did you anticipate or possibly assume that a Scandinavian expedition might possibly be planned?

A. In the late fall of 1939 I gathered that something was accumulating on the horizon. Herr Quisling suddenly turned up in Berlin. I heard of his presence there because he wanted to come and see me.

Q. Why did Herr Quisling want to come and see you particularly?

A. Because he knew me from Oslo; when I was a Minister in Oslo in 1931 he was Norwegian Minister for War. And perhaps I was one of the very few people in Berlin who knew anything at all of Quisling.

Q. Now, what course and development did your contact with Quisling take?

A. There was no course or development at all because I had him informed that I wasn't in; and I wouldn't receive him at all.

Q. Well, why did you refuse to see and receive Herr Quisling?

A. I knew that Quisling was a strange, eccentric, and obstinate man. Actually I really wasn't in any position to say anything bad about him; but it wasn't possible to discuss politics with him on a serious basis. And I told Ribbentrop that he should see to it that Quisling would not get into the Reich Chancellery; and Ribbentrop concurred with what I had to say.

* * * * * * *

Q. Concerning the negotiations between Quisling and Hitler, what did you hear?

A. I had no official knowledge of that at all. With the exception of Ribbentrop, the Foreign Office was left completely in the dark, and the result was that even our Norway and Denmark specialists in the Foreign Office were taken quite by surprise when the Germans marched into these countries. But I myself, as a personal acquaintance of Herr Quisling from Norway, had

developed very fine ears. I took an interest particularly in Herr Quisling's doings and activities without actually seeing him; and as formerly, in Norway, I followed these aims of his through my own channels of information. The large number of old acquaintances I had in the navy gave me great help in that and one of them was the Commander in Chief of the German Navy, Admiral Raeder—and many others also—for instance, the German Naval Attaché with the German Legation in Norway, with whom I had personal acquaintance since the days of the Skagerrak Battle. In short, these naval affiliations of mine made it possible for me, at a very early date, to find out what was cooking and together with certain friends from the navy, particularly Admiral Canaris, I now tried to plant some difficulties in the path of this planned enterprise in Norway. Canaris did his best and I myself warned Ribbentrop also—warned him against a possible expedition to Scandinavia; and I repeatedly pointed out that this possibility existed for the months of February or March. I claimed for myself that I had certain knowledge of Scandinavia and I hardly believed that the Norwegian Government would plot with the British Government in order to try and get the Western Powers there again.

JUDGE MAGUIRE, PRESIDING: Just a moment. (To Dr. Becker): Did he say "heartily" or "hardly" believed?

DEFENDANT VON WEIZSAECKER: I said "I hardly" or I did not believe that the Norwegian Government would do that.

JUDGE MAGUIRE, PRESIDING: All right.

DR. BECKER: However, there were certain indications that there could be a landing of the Western Powers in Norway in order to help the Finns against Russia, in their winter campaign of 1939 and 1940?

A. That's correct. There were such indications, at least from our viewpoint, and it can hardly be imagined even what turn world history would have taken if the Western Powers had had this plan come true and had marched, together with Finland, against Russia. In reality, the only thing that happened was that towards the middle of March, after the so-called Finnish winter campaign had found its end by an armistice, the chiefs of the London and Paris governments, in their Parliaments, made some remarks of a favorable attitude and spoke about their plans for help to Finland.

Q. In other words, later you didn't believe at all that the Western Powers might land in Norway?

A. At that time I didn't believe so; and therefore I considered the Scandinavian campaign, which Hitler undertook, an unforgivable mistake, because I was against any expansion of the theater

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of war, wherever it might be. My constant phrase and slogan was that the substance of neutral countries should be safeguarded, as far as possible, because neutral states were absolutely essential for the protection of the remainder of the humanitarian spirit and humanitarian activities during the war. Furthermore, the surface of the world that had remained neutral in the face of the ever-increasing barbarism afforded a chance for a more peaceful regeneration.

Q. Herr von Weizsaecker, even today, don't you believe that there were plans at that time for a landing in Norway by the Western Powers?

A. I have to admit that I was mistaken at that time. According to the documentary proof existing today, I have to believe that they had such plans; and besides, my error became apparent very quickly during the Norwegian campaign itself. That was rather disagreeable for me because my political prognosis had proved deficient. Today there cannot be any doubt at all. If Hitler had postponed his attack against Scandinavia for 2 or 3 days, then the Western Powers undoubtedly would have become the violators of Norwegian neutrality. However, that was irrelevant for me at that time. I used my own means and possibilities to try and avoid a violation of neutrality by Germany.

Q. Since you had lived in Denmark and Norway for several years, Hitler's Norse warfare had to be particularly painful to you?

A. Yes. That was very painful to me. I don't wish to become sentimental here but it really moved me a great deal, this outbreak of war. In the diplomatic corps in Berlin, of course, it was perfectly well known what my attitude was.

Q. However, you took part in the diplomatic preparations for that campaign?

A. When I heard about the military orders, the navy had already taken to sea. That is, the orders had already been given out. My own warnings and admonitions and those of Canaris had remained fruitless. Nothing could be changed now, and it would never have occurred to me to sabotage, for instance, a military action that had already been started; and I make it a point to stress that to this Tribunal. I reported sick; I was generally unwell, and as of 7 April I failed to go to my office and remained without any contact with Ribbentrop. Ribbentrop sent word to me that I should stay at home quietly and get over my illness, and apparently he was quite glad that I myself wasn't on the spot.

* * * * * * *

Q. Now, the Scandinavian campaign was nothing but the pre-

liminary act for the campaign in the West. That couldn't be changed, could it?

A. No. Nothing could be done about that. I have already described that in October 1939 I made a written and verbal attempt to advise against an open western war. I have already explained that the weather was the reason why my desire was granted. Now, when the winter was over, of course, nothing could be done to stop the attack.

Q. What did the Italians say about that?

A. I have already told you about Mussolini's letter of the beginning of January. In view of the cool reception which Hitler had given to this letter of Mussolini's, Mussolini suddenly changed tactics and no longer warned against the western campaign. Apparently he was worried and he was afraid that in case of a political harvest, he would not get his grain in; and the great admonisher, the man full of character, Italian Ambassador Attolico, was sent away from Berlin and I was very sad to lose him.

Q. And what about the representatives of Holland and Belgium?

A. Both of them were excellent diplomatic representatives of their country. I had a common worry with them, which was not worded but which was well-known to all of us; we were all afraid that there would be an offensive in the spring, and we were also worried that such a campaign would go through both countries, or at least through Belgium. Everybody imagined that, at least everybody who had ever heard anything about strategy, and everybody who knew how little Hitler was worried about scruples.

Q. When did you get official notice—that is, notice through official channels—concerning the deadline for the offensive?

A. I heard about the attack in the direction of Holland and Belgium, through official channels, on 10 May at 1 a.m., that is, a few hours before the actual attack. The diplomatic documents pertaining to that affair were again produced by Ribbentrop and manufactured by Ribbentrop with the complete elimination of the Foreign Office, and under great secrecy. However, all the same, I cannot claim that I was extremely surprised but the fact was of the greatest political importance because now all threads had been cut as far as negotiations were concerned, the German headquarters moved toward the West, and there was no longer such a thing as politics.

Q. Herr von Weizsaecker, how was this preparation made for diplomatic action?

A. You mean how the documents were drawn up?

Q. Yes, that is what I mean.

A. I wanted to say that, as usual, the diplomatic documents

were manufactured by Ribbentrop and his closest collaborators, under the strictest seclusion and with the elimination of the Foreign Office and of my person. Therefore, we did not participate. Is that what you meant?

Q. Yes. However, you had been informed earlier, in private by your friends from the military circles and they had told you that the attack was imminent and definitely to come?

A. Yes. That fact was brought to my knowledge. Canaris probably told me.

Q. But it is stated that the then Colonel Oster, the closest collaborator of your friend Canaris who was also in constant contact with you, had betrayed the date for the attack to the Dutch, before the attack actually started. Is that correct?

A. I can neither deny nor affirm that. However, I did know the general clear-cut attitude of Admiral Canaris and that is why I am quite certain about one thing, which is that there cannot have been any treason in any department of counterintelligence under his supervision and there cannot have been any case of treason by Colonel Oster either. That is impossible. If Oster had informed the Dutch or the Danes or the Norwegians and gave them some warning, then he certainly did that with the intention of creating by this information, in the newspapers of that country, such a sensation that Hitler would be caused to call off the attack. Because whoever thinks that these people were capable of doing something else other than to try to prevent the attack knows them very badly and doesn't know what desperate means even a decent man often has to use under a dictatorship.

WEIZSAECKER DOCUMENT 2*
WEIZSAECKER DEFENSE EXHIBIT 6

AFFIDAVIT OF BISHOP BERGGRAV, PRIMATE OF THE NORWEGIAN CHURCH AND BISHOP OF OSLO, 16 DECEMBER 1947, CONCERNING HIS ACQUAINTANCE WITH DEFENDANT VON WEIZSAECKER, HIS PEACE EFFORTS IN THE WINTER OF 1939–40, AND HIS DISCUSSIONS WITH VON WEIZSAECKER IN JANUARY AND MARCH 1940

Oslo bishop

Statement by the Bishop of Oslo, Eivind Berggrav, D.D.,
Primate of the Norwegian Church, born 25 October 1884

To whom it might concern,

ad: Freiherr E.v. Weizsaecker, former Staatssekretaer in Ausw. Amt [State Secretary in the Foreign Office], Berlin, and former German Ambassador in Citta del Vaticano.

I have received information from Geneva that Freiherr E.v. Weizsaecker is to be brought to trial with regard to his past life and his work in the Foreign Office, Berlin.

I should be very grateful if the following statement by myself could be laid before the Allied authorities.

I knew Mr. Weizsaecker in the Weimar-epoch (before 1933), when he was a diplomat in Oslo, and I have been in connection with him and his wife ever since. My last personal contact was March 1940 in Berlin. We then—on many occasions—had an intimate, nonofficial conversation and found ourselves bound together by common principles and common philosophy of life. This very agreement inspired confidence and we were able to speak to one another frankly. One of the strongest impressions in my life was the experience I then had of the suffering, I might say the tragedy, of Mr. Weizsaecker in the Hitler period. There was no need for him to tell me that he was "against it." I knew him too well and was not at all surprised at his attitude. But it was a shock to see how it brought this noble man *in despair*, and at the same time feeling obliged not to escape, leaving things to their fate while saving himself. He felt bound by his duty to stand by his task and try to do the best. I once asked him how he could and he replied: "If I go, there will be nobody here to act as a brake. This is my only hope now—to prevent the worst, wherever I may."

As to the details from the period 1939–40 I state the following: After having been invited over to London, where I had conversations during December 1939 in the Foreign Office with Lord Halifax and his advisors as well as with others, I took part in

* All parts of this document except appendix II were submitted in the English language.

a meeting of Church Leaders from Great Britain and France in Zilven, Holland, January 1940. The aim was to consider a platform for an appeal for just peace-aims. The statement agreed on (appendix 1—The Times in photo) was later published in the Times (8 February 1940) by the Archbishop of York, Dr. William Temple, who had been the head of the British delegation and who was in contact with the Foreign Office before publishing it.

My job was to get this paper into the adequate German hands, the aim being to weaken the German will to prolonged war and to strengthen those circles who were opposite to war; I tried in Berlin but Bishop Haeckel im Auswaertigen Kirchenamt [Foreign Church Office] dared not even keep the paper. My hope then was Baron von Weizsaecker. I had conversations with Mr. Weizsaecker on 6 January 1940 at 12 o'clock and on the 18th at 14 o'clock. He not only accepted officially the British document but also encouraged our endeavors, in spite of his personal feeling of the situation as a desperate one. He also opened the door for me to the chief of the Foreign Office Cultural Branch, Mr. Twadorsky [Twardowski], who—as I later heard—was in contact with the opposition against Hitler.

I have in my hand two notes from those days, a letter to my wife, dated Berlin, 15 January 1940 and a report delivered by myself in the British Foreign Office to Lord Halifax in London on 27 January 1940 during two sessions that day (1230 and 17 o'clock). (A copy of the original Norwegian text appendix 2). I quote from the letter to my wife—

> "Weizsaecker was noble and wise as always. I was happy to see him and talk to him. What deeply impressed me, was how broken he seemed to be, how hopeless. Just like Halifax he eruptively exclaimed: 'Oh, if we might stop this war!'—We went through all the material but all ways seemed to be locked. 'You on the other side,' Mr. Weizsaecker said, 'are unable to imagine what dictatorship really means. Namely this, that *one* man decides everything after his own brain.' He knew the real way out. 'Wherever we try, we are in the iron grip. The sad fact is that the Governor (der Fuehrer) decides everything out of his own interests, not out of those of the people. You may today pick up whatever German soldier you like and whosoever you ask, all of them would make peace at once. And in spite of that, we shall be damned to enter into it!' "

On reporting to Lord Halifax I confidentially gave him the name of Weizsaecker, quoting his words to me—

> "One must continue to work for peace. The drop hollows the stone at last. The chief point is the enormous responsibility

we load upon ourselves by not having tried whatsoever might be tried without doing harm. Now we are on the way into an automatic circle."

I had to be very careful not to do harm to a man in the position of Weizsaecker but I knew where I had him, and was confident that he blessed my secret contacts with men of the opposition.

My next talk to Mr. Weizsaecker was in March 1940. On 15 March I was called from Oslo to Stockholm, where I met Mr. A. Baldwin Raper from London, former M. P. [Member of Parliament] who—according to his saying, in accordance with the Foreign Office and, as I made sure—backed by the British Embassy in Stockholm, wanted at once to get in contact with a German, who—like himself—might be the unofficial agent of Foreign Office in Berlin. I went by plane to Berlin and one hour after my arrival saw Mr. Weizsaecker in his office. (It was 8 March 1940 at 6:30 p.m.) He listened to me but was uncertain as to the action because of the Hitler-Mussolini meeting in Brenner just in those days. He wanted me to call upon him 2 days later. When I came in 20 March, Mr. Weizsaecker was ash-grey in his face, bowed his head, the words bursting from him—"Darkness, only darkness, we shall have *war, war, war.*" If there was any chance for the proposed British contact? He said: No. It would, after what had happened, not even be possible to bring the matter before Ribbentrop.

Next morning Mr. Weizsaecker phoned me—Come at once. He had decided in spite of everything to make the effort and now wanted to discuss with me the possibility of getting a Swedish visa for Director von Stauss (Deutsche Bank and Lufthansa [Air Line], not a member of the Party but an important man) to go to Stockholm and meet Mr. Raper. I told him that this would be O.K. I knew v. Stauss as a man keen on anything which might be done against Hitler's war.

In the evening v. Stauss came to my hotel, quite down. They had not succeeded in forwarding the plan.

What has been notified above are to me only small signs but they are facts testifying the *good will* of a noble man in the most tragic conflict of life. There may have been other occasions where Weizsaecker was forced to shut his eyes and accept a measure of responsibility for what was done. But I know this man in the essential character of his soul and I trust him because I saw him suffer and serve.

If it were to be even of the slightest use, I should be happy to appear before any Allied authority who would like to question me about Mr. Weizsaecker.* I also know very well his wife,

* Bishop Berggrav testified before the Tribunal as defense witness on 14 June 1948. The testimony is recorded in the official mimeographed transcript, pages 8514–8543.

Mrs. Marianne Weizsaecker, with whom I could talk in Norwegian, and who helped me so often, being like her husband a strong and always faithful friend of Norway and of true freedom.
Bishop's House, Oslo, 27 November 1947

[Signed] EIVIND BERGGRAV
Eivind Berggrav
Bishop of Oslo
Primate of the Norwegian Church

[Seal of the Oslo Bishop]
Kingdom of Norway, City of Oslo
Embassy of the United States of America

Subscribed and sworn to before me this 16th day of December 1947.

[Signed] J. H. CLAGETT
J. H. CLAGETT
Vice Consul of the United States of America

[Seal]
American Consular Service
Oslo, Norway

American Foreign Service
[Fee Stamp]

Service No. 14619

[Appendix I][1]

8 February 1940

Letters to the Editor[2]

OUR COUNTRY'S PURPOSE

British Christians and Scandinavia

To the Editor of the Times

Sir,—It seems desirable to make public in this country, as it will be made public elsewhere, that by the invitation of the Primate of Norway four members of different Christian denominations in England met certain leading members of the Scandinavian Churches, with a view to making clear to them the spirit and purpose of Christian opinion in our country at this time. The four persons in question were the Rev. W. Paton (Presbyterian), the Rev. Henry Carter (Methodist), and the Bishop of Chichester with myself (Anglican).

We made it clear that we had not been appointed by our respective denominations and had no authority to speak for anyone but

[1] This appendix was also submitted in the English language.

[2] Concerning this "Letter to the Editor" of the London Times, Bishop Berggrav testified that "the document was published later in the Times of 8 February, and this was done by the Archbishop William Temple. He had the consent to the publication from Lord Halifax, the Foreign Secretary." (*Tr. p. 8524*)

ourselves; we also made it clear that the whole British people, though free from anything like war-fever, is united in determination to pursue the war until the objects for which our nation entered it are secured. At the end of our conversations an agreed note of what we had said was drawn up and is appended to this letter.

Yours faithfully,
WILLIAM EBOR

Bishopthorpe, York, 6 February

STATEMENT

The Bishop of Oslo lately invited four Christian citizens of Great Britain who hold positions of influence in their several denominations to meet him and the Archbishop of Upsala with other church leaders from Scandinavia. The British Christians spoke for themselves alone, and not for any church or other organization; but they believed that they represented a large body of opinion among Christians in their country. The following is an account of the views which they expressed:

They fully and cordially recognize as fellow-members in the *Una Sancta* all those in Germany who believe with them in the Lord Jesus Christ and seek to obey His will.

They try to lead their fellow Christians in prayer such that German Christians could join in it from their hearts.

They know that the peoples and governments of Great Britain and of France have no desire for the destruction of Germany but aim at a peace resting on the reconciliation of nations.

They regard as vital to the establishment of true peace a spirit of trustworthiness and of mutual trust among the nations.

They believe that it would be right to enter into negotiation if the following points were secured:

(*a*) That the Czech and Slovak and the Polish peoples be recognized as independent and sovereign—and that practical guarantees for this be forthcoming; the nature of such guarantees cannot be defined in advance, because they may greatly depend upon the conditions existing at the time.

(*b*) That the definitive peace be negotiated in a congress including at least the European nations, the Czechs, Slovaks, and Poles being full partners in the congress.

They are agreed that all have share in the sin of the world which now expresses itself in this war; also that errors made by their country and its Allies in 1919 and the following years have contributed to the evil state of Europe, though in saying this they also affirm that their government and that of France entered into

the present war in obedience to a moral obligation by which they regard themselves as still bound.

They look forward with passionate longing to the time when they and their German friends may be united in bringing to bear upon the world the spirit of Christian love and fellowship, so that they may create a new order in Europe inspired by respect for justice, mercy, and truth.

They are persuaded that as a part of this hope a prominent place must be given to economic justice and to the enterprise of making available for the well-being of all peoples the wealth which science now enables mankind to produce in so great abundance.

They recognize an obligation upon all Christians in prayer and study to seek the will of God in relation to the facts of this time and to urge upon their fellow-citizens in their own countries the duty of readiness for sacrifice for the good of the whole fellowship of nations.

Appendix II*

Bishop of Oslo
Being the original Norwegian text of Bishop Berggrav's letter and report January 1940

Copy of a letter from Bishop Berggrav to Mrs. Berggrav, dated Berlin, 15 January 1940

"It was good to talk to Weizsaecker, he is as fine and intelligent as he used to be. It made the deepest impression upon me to see the bent appearance of Weizsaecker and his hopelessness. Exactly like Halifax he cried impulsively: 'Oh, if we could only make an end to this war.'

"He went through everything but we have come to a standstill. 'Other people will never be able to understand what a dictatorship means,' he said, 'that is that one single man decides everything according to his own personal wishes.' The whole thing seemed hopeless to him, he did not know what to do next. 'Whatever we may try, we have come to a standstill. The whole misery is a result of the fact that the government (the Fuehrer) rules in accordance with its own interests without considering the interests of the nation. Today you can choose any German soldier you like from the crowd, and *every one of them* wants to make peace at once. And nevertheless we have to go through all this.' "

* With the exception of the first sentence the original of this appendix was submitted in Norwegian.

Copy of Bishop Berggrav's report, given personally to the Minister of Foreign Affairs, Lord Halifax, in Downing Street on Saturday, 27 January 1940 at 1230 hours.

7. [sic] A German diplomat whose name I gave Lord Halifax confidentially (it was Weizsaecker) told me:

> "We have to go on working for peace. Constant drops hollow the stone. It may not necessarily be in vain even if it seems so today. The important thing is the enormous responsibility we take upon ourselves by not having tried what we should have tried without incurring damage to anybody. We are walking around in a circle."

Certified a true copy.
Oslo Bishopric, 27 November 1947

[Illegible signature]

G. The Invasion of the Netherlands, Belgium, and Luxembourg

TRANSLATION OF DOCUMENT NG-3945 PROSECUTION EXHIBIT 254

AFFIDAVIT OF FRIEDRICH GAUS, FORMER HEAD OF FOREIGN OFFICE LEGAL DIVISION, 12 DECEMBER 1947, CONCERNING ACTIVITIES OF DEFENDANT SCHELLENBERG AND OF THE FOREIGN OFFICE RELEVANT TO THE INVASION OF HOLLAND, BELGIUM AND LUXEMBOURG

I, Dr. Friedrich Gaus,* Ministerial Director and Head of the Legal Division of the German Foreign Office with the title of Under Secretary of State in 1940, after having been warned that I will be liable for punishment for making a false statement, state herewith under oath, of my own free will and without coercion or duress, the following:

In the months preceding the attack upon Holland, Belgium, and Luxembourg on 10 May 1940, it was common knowledge among the leading officials of the German Foreign Office, including myself, von Weizsaecker and Woermann, that this invasion was imminent. The following facts, spread over a period from late fall 1939 till the date of the invasion, established this common knowledge:

* Extracts from Gaus' testimony concerning this affidavit and the organization and operation of the Foreign Office are reproduced immediately following the affidavit.

(1) I knew, and it was common knowledge in the Foreign Office, that in November 1939 Germany rejected, through the medium of the German Foreign Office, the joint offer of the governments of Belgium and Holland to mediate the conflict between Germany and the Western Powers.

(2) It was generally known in the Foreign Office, from late fall 1939 on through the winter months, that German troops were being concentrated in great strength at the Dutch and Belgian borders.

(3) Liaison of German Foreign Office with OKW [High Command of the Armed Forces]. During the entire period preceding the invasion, the German Foreign Office maintained the closest contact with the military authorities. Heyden-Rynsch, the liaison official between the Foreign Office and OKW, reported to von Weizsaecker regularly. I often saw him entering von Weizsaecker's office, and I knew that Heyden-Rynsch was working in the closest cooperation with the High Command of the Armed Forces.

(4) The "Venlo Incident." About November 1939, the German Press published a semiofficial version of the "Venlo Incident." It was reported that two agents of the British Secret Service who were attempting to instigate a revolution in Germany were lured from Holland through a ruse by members of the SD and promptly arrested in Germany.

Shortly after Christmas 1939 I was informed by Ribbentrop that voluminous material would be turned over to the Foreign Office concerning violations of neutrality committed by Holland and Belgium. This information had been compiled by Himmler or Heydrich and, in part, was obtained as a result of the Venlo Incident. In addition, other information collected by the SS and the SD demonstrating the nonneutral attitude of these countries would also be included. Ribbentrop further said that this material would be brought to me by Schellenberg of the SD within a few days, and, since I was an expert in international law, he wanted me to examine this data to determine whether any breaches of neutrality had been committed.

Shortly thereafter Schellenberg brought me a very long report and related the true course of events in the Venlo Incident. Two British consular agents in the Netherlands, Stevens and Best, members of the British Secret Service according to the SD, had attempted to promote a revolution within Germany. He, Schellenberg, a member of the SD, posed as a member of the opposition, established contact with Stevens and Best, and arranged a meeting near the small Dutch town of Venlo, not far from the German frontier. He had secretly entered Holland several times prior to

the meeting to make the necessary arrangements. At the appointed time Stevens and Best arrived, accompanied by a Dutch Lieutenant, Klop, and were met by the SD agents, led by Schellenberg. A shooting affray started in which Klop was seriously wounded and the three were overpowered and taken across the German border. Lieutenant Klop died soon afterwards in a German hospital from his wounds. Stevens and Best were imprisoned and constantly interrogated by the SD and the Gestapo under Schellenberg's direction. Schellenberg was decorated with the Iron Cross, First Class, for having successfully effected this kidnapping.

Schellenberg told me this story during the course of our first meeting. He then reviewed the entire contents of the report, including information acquired through the interrogation of Stevens and Best. He mentioned that these interrogations were not yet completed, that he directed these interrogations and that more evidence could be anticipated. The report contained much detailed data, including the Venlo Incident, concerning alleged British espionage activity in Belgium and Holland in close cooperation with the military circles of these countries.

After examining the report with Schellenburg, I told him that I could not find any evidence establishing the participation of the Dutch and Belgian Governments in these activities, and therefore no proof existed from this evidence that breaches of neutrality had been committed by the governments. Owing to the crude and illegal methods employed during the kidnapping of these two men, and because of the dubious methods employed by the SD during their interrogations, I had the impression that the report was not wholly true. However, due to the wealth of evidence of British Secret Service activities contained in the report, I could not resolve my suspicions.

Since the interrogations were not yet concluded, Schellenberg took the SD report with him. I immediately reported the meeting to Ribbentrop and informed him that I had discovered no breaches of neutrality having been committed by the Belgian and Dutch Governments nor any evidence that these governments were taking an aggressive, unfriendly attitude toward Germany. He requested that the SD report be brought to him as soon as it was completed.

Several times in the following weeks in January 1940 Schellenberg returned with additional portions of the report, including continued interrogations of Stevens and Best, which we discussed. Finally, I received the report as it was then drafted by him about the end of January and delivered it to the Foreign Minister. Ribbentrop later told me that he had discussed the SD report with Hitler and that he was not very impressed by it.

Rintelen,[1] Referent for Belgium and Holland in the Political Division under Woermann, told me that the German Foreign Office had received a formal protest from the Netherlands Government demanding an explanation of the Venlo Incident and the fate of the three kidnapped. To my surprise as well as that of Rintelen, Ribbentrop ordered the matter to be treated in a dilatory manner and that no reply be made. I had two or three lengthy discussions with Ribbentrop and even drafted a note of reply for Ribbentrop's signature, even though I had no jurisdiction in this matter. I drew his attention to the fact that according to international and diplomatic usage, the Dutch Government was entitled to an explanation. His only answer was that he would not permit international custom to bind his course of action.

Notwithstanding several reminders sent by the Dutch Government, Ribbentrop abided by his decision. Rintelen kept putting them off although they continued to press him. I believe that he must have discussed this matter with his immediate superiors, Woermann and von Wiezsaecker.

(5) Ribbentrop about January 1940 also ordered Schmieden,[2] a subordinate of Woermann's in the Political Division, to collect all material in the Dutch and Belgian press that adopted an unneutral and hostile attitude toward Germany. He was instructed to assemble this data and keep it available for immediate reference. I assume that Woermann knew of the Schmieden reports because Schmieden casually and openly discussed this job fully with me. Since he made no secret of his assignment, I concluded that his superior, Woermann, must also have been informed.

(6) During January 1940 I received a visit from Buerkner, Chief of Foreign Intelligence of OKW [High Command of the Armed Forces], and a junior officer. He informed me that OKW was collecting material on alleged violations of neutrality by Belgium and Holland and stated that the evidence was very meager. He wanted to know what form this OKW report should take, but since he was not certain of its purpose, I could not give him all the detailed advice he desired.

(7) During January 1940 it was generally known among the leading officials of the German Foreign Office—I believe that I was at first informed by Ambassador Hewel—that a German military plane had landed by mistake in Belgian territory, and German plans for the invasion of Belgium had fallen into the hands of the Belgian Government. This incident created much excite-

[1] Emil von Rintelen was a witness in this case. Complete testimony on 23 August 1948 appears in transcript pages 17552–17571.

[2] Karl August Guenther Werner von Schmieden was a witness in this case on 15 September 1948. Complete testimony in transcript pages 21580–21584.

ment in leading circles, and the German Foreign Office tried to conceal the real situation and to explain away this occurrence.

(8) During January 1940 I was informed, and it was common knowledge in the German Foreign Office, that there had been a second general alert and mobilization of troops in the Netherlands because the German invasion was thought to be imminent. There was also continual talk of large-scale concentration of German troops along the Dutch and Belgian borders. I remember a conversation that I had with the State Secretary von Weizsaecker about February 1940. I stated that Ribbentrop seemed to be energetically collecting a great deal of evidence from many sources to establish that Belgium and Holland were not maintaining a neutral status. I mentioned several examples to support this conclusion. Von Weizsaecker's reply confirmed this and revealed that he too was aware that this situation existed.

(9) About early March 1940 I learned that Ribbentrop had instructed Rintelen of the Political Division to record, in cooperation with the High Command of the Air Forces, all instances in which British planes attacking Germany flew over Dutch territory and to make them the subject of formal notes of protest. As a matter of policy, a great many such notes were sent to the Netherlands Government.

The aforementioned facts were essentially known to all the leading officials of the German Foreign Office. From my remembrances, I am quite certain that von Weizsaecker and Woermann were at that time aware of what had transpired in the Foreign Office during this period. The facts when considered together created the impression among all of us that they were related to preparations for the imminent invasion of Belgium, Holland and Luxembourg. Further, it was clearly evident that Ribbentrop was collecting material against these countries, such as the Schmieden press reports, the SD and OKW reports, the protests against British flights, etc., in order to provide justification for such an invasion. Though none of the above mentioned facts may have been sufficient, the cumulative whole created such a general impression among the leading officials in the German Foreign Office.

I can safely state that Ribbentrop spoke quite openly to myself and other leading officials of the German Foreign Office on the second or third of May 1940 about the imminency of the German invasion of Holland, Belgium and Luxembourg. During this last phase preceding the invasion, Ribbentrop reviewed the various reports and material assembled on alleged violations of neutrality committed by these countries against Germany and dictated the memorandum which was to be presented to each of the invaded

countries through diplomatic channels on the day of the invasion. He informed me about the third or fourth of May that the reports to be appended to the memorandum that he was dictating were ready with the exception of the OKW reports. He stated that the Reich Ministry of Interior's report, that is, the final SD report on the Venlo and other incidents, was excellent justification; that the press material collected by Schmieden was ready; that the formal protests to the Netherlands about the British Air Forces continually flying over these countries have been accumulated, and that he had the OKW reports on violations of neutrality by these countries. However, he was not satisfied that the OKW reports in their present form were strong enough to be appended to the memorandum. He wanted the OKW reports built up to a crescendo, and they should include several examples of flagrant violations of neutrality by these countries and establish that the British and French forces were preparing to invade and occupy these countries. He, therefore, wished the OKW to modify its reports in this respect so that the report would increase the urgency of the situation and that the story would rise to a crescendo that would provide excellent justification for Germany's taking military action against Holland, Belgium and Luxembourg.

I believe that I may have communicated this information to Buerkner and OKW in the course of a conversation during which Buerkner inquired as to whether the OKW report had been commented upon by Ribbentrop. Within the next few days I was told by Rintelen that Ribbentrop had sent him to OKW headquarters to present his advice and to have the OKW reports strengthened per his instructions.

During the period between 3 and 10 May 1940 I spent much of my time in Ribbentrop's office at 73 Wilhelmstrasse, taking part in the technical preparations for the transmission of the diplomatic notes. During this tense period, von Weizsaecker had several audiences with Ribbentrop at which I was not present, since I was occupied with other duties.

About 4 May the selection of six couriers to take the necessary dispatches to the German Embassies in each of the countries to be invaded were selected. Two couriers were selected for each country, in order to insure that the dispatches were safely delivered. I did not participate in this selection and feel certain that it must have been accomplished by the Secretary of State, von Weizsaecker, or one of his subordinates, who was fully informed about the importance of the tasks of these special couriers. In addition to these couriers, Minister Kiewitz was selected for a certain secret mission of which I was not informed. He was entrusted to go to The Hague under an assumed name to execute

this mission given to him by Ribbentrop. It goes without saying that every leading official of the German Foreign Office was aware of the preparation of the couriers and must have realized that something extraordinary was about to happen. To the best of my recollection, the date for the invasion was postponed in the very last moment, and the couriers who had already been dispatched were stopped en route and recalled.

It is quite obvious to me that von Weizsaecker was fully informed during the period from 3 to 10 May 1940 since he had held several discussions with Ribbentrop during these tense days. In addition, I believe that Ribbentrop left Berlin on the day of the invasion, 10 May 1940, and von Weizsaecker remained in Berlin in complete charge of the German Foreign Office, and with full responsibility for handling the many tasks and questions that necessarily arose in the first days after the invasion. I believe that it would have been impossible for Ribbentrop to have left the German Foreign Office at this critical period without informing von Weizsaecker, as State Secretary and as his deputy, what he desired to be done. Since immediate coordinated action was necessary on the date of the invasion, in my opinion it is reasonable and probable that von Weizsaecker in turn informed Woermann what steps were to be taken by the officials of his political department.

I have carefully read each of the six pages of this affidavit and countersigned them personally. I have made the necessary corrections in my own handwriting and initialled them and declared herewith under oath that in this statement I have told the whole truth to the best of my knowledge and belief.

Nuernberg, 12 December 1947

[Signed] FRIEDRICH GAUS

EXTRACTS FROM THE TESTIMONY OF THE PROSECUTION WITNESS FRIEDRICH GAUS*

DIRECT EXAMINATION

DR. KEMPNER: Dr. Gaus, will you please give your full name?

A. Friedrich Gaus.

Q. When and where were you born?

A. On 26 February 1881, in Mahlum, District of Gandersheim.

Q. Then what is your present age?

A. Sixty-seven years.

Q. For how long a period were you in the German Foreign Office?

* Complete testimony is recorded in mimeographed transcript, (7, 10 May 1948), pp. 4806–4865; 4899–5020.

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A. I entered the Foreign Office in 1907.

Q. And for how long a period were you there?

A. Until the collapse. That is, I was on leave in the last few weeks and I was not formally dismissed.

Q. Almost forty years, is that correct?

A. Yes, that is correct.

COMMISSIONER MAGUIRE, PRESIDING: Dr. Kempner, you will have to be careful not to start your question until the translation comes through.

DR. KEMPNER: Thank you, Your Honor.

Please give us a brief description of the positions that you held in the German Foreign Office.

WITNESS GAUS: In 1907, I entered the Legal Division as Gerichtassessor. I remained continuously a member of this Division formally until 1943, except for two years, from 1910 to 1912, when, for training purposes, according to the methods usual at that time, I was abroad as vice consul. I became head of the department in 1923, whereupon I obtained the title and post of Ministerial Director. As Ministerial Director and head of the Legal Division, in 1939, I received the official title of Under State Secretary. Then, in March of 1943, I was appointed Ambassador for Special Assignments and was relieved of the post as Chief of the Legal Division. Even before being relieved of this post—and I should stress this—by Ribbentrop's special order, very soon after he was appointed, I was pulled out of the work of the Legal Division. I can't give you the exact date, but from about the spring or early summer of 1940 I no longer worked in the Legal Division.

Q. And what was your job after that time?

A. My actual work did not change. After 1943, it was exactly the same as before. Ribbentrop called me in, in an advisory capacity, and gave me special assignments.

Q. What were the great international treaties you helped to draft?

A. That would be a very long list.

Q. The main ones.

A. Well, I can start—because, of course, I was too young, earlier, to have played a particularly important part—with the Peace Treaty in 1918 between the German and Soviet Governments and Rumania. Then, the peace negotiations in Versailles. The next stage, perhaps, was the Geneva Conference, which was very important at the time, and the Rappallo Treaty. In 1924 there was the Reparations Conference in London, with agreements of partly a political and legal character, concerning the Dawes opinion. In 1925 there came the well-known Locarno

Treaties, and the agreements concerning the entry of Germany into the League of Nations. In 1926 there was the so-called Berlin Treaty with the Soviet Government which was of high political importance. In 1928 there was not, of course, the formulation, but preparation and advice on the steps which made it possible for Britain, France, and Germany, to join in the Kellogg Pact.

In 1929 the agreements as to the Young Plan for the purposes of revision of the reparation provision. Then there was the Lausanne Conference, and the final solution of the reparations question. Under Hitler, too, I can mention a number of agreements and treaties. In 1934 the Berlin-Polish Non-Aggression Pact. In 1937 an important exchange of notes with Belgium which was to replace the Locarno Treaty, which had become obsolete through the occupation of the Rhineland. The Non-Aggression Pact of December 1938 with France. In 1939 the Non-Aggression Pact with Denmark and the two Baltic States. In the fall there were well-known political treaties with the Soviet Government. In 1940 I was only concerned in the final stages of the Three Power Pact. In 1939 I forgot the treaty concerning the reincorporation of the Memel territory. The alliance with Italy in 1939. In 1940 I mentioned already the final stages of the Tripartite Pact. In 1941 after the attack on Pearl Harbor the Treaty of Italy and Japan concerning the common conduct of war and the common armistice. I think, as far as I can see, without any written notes at my disposal, these are the most important treaties where I was concerned as legal adviser.

Q. How many years were you in prison after the defeat of Germany?

A. In August 1945 the British Military Government interned me in Brunswick. After having been transferred to Nuernberg during the IMT Trial at the beginning of March 1946, I was discharged in 1947.

Q. What were the circumstances of your coming to Nuernberg?

A. At that time I only heard from the defense counsel, who interrogated me at the first interrogation. Ribbentrop's defense counsel told me that it was they who had me transferred here as a witness.

Q. Have Allied authorities interrogated and interviewed you?

A. Yes, of course, extensively. In the British Camps in particular. In the interrogation camp near Hanover I was interrogated many times, and here, too, apart from the first interrogations by the defense in the IMT Trial. I was mostly, of course, examined by the American authorities, but occasionally too, by the British, and Norwegian representatives.

Q. Have defense counsel interviewed you, and have you sworn out affidavits made in behalf of defendants in Nuernberg?

A. Yes, in the IMT, as I said, I was interrogated only by the defense counsel not only in behalf of Ribbentrop but also, for instance, if I remember at the moment, the defense counsel for Hess, Goering, von Neurath, I think that is all. Later on, for example, in the Milch Trial[1] I was interrogated by defense counsel. Furthermore, I made out an affidavit for one of the defense counsel in the Flick Case[2] at his request. In the IMT, too, I have not mentioned that; my only function apart from interrogations by the defense counsel, was to make out another detailed affidavit for the defense counsel for Hess. Recently I was requested by one of the defense counsel for an affidavit which I made out for one of the defendants here.

Q. In what light do you now look upon your service within the Third Reich?

A. I don't hesitate to say that I would be a great deal happier if, during the Hitler regime, I had the strength of mind to decide to resign. I don't say that, I can assure you, because of the now obvious outer disadvantages of today connected with the official work under that regime, I mean it rather on an internal basis. I know that for the rest of my life I should be a great deal happier if I had found the strength to leave in time. If I may make this statement regarding my attitude to make more understandable the reasons which caused me to stay in office until 1945, and, I say, quite openly, that I don't give this by way of justification, but just to make it clear psychologically what I mean and what is my inner attitude. If I take the years 1938 and 1939, I think they were the most decisive in this regard, because at that time no one could any longer fail to recognize the true character of the Nazi regime, and no one could be any longer in doubt whereto we were travelling. At that time, I was nearly sixty years of age. As I said just now, I had already been working for over 30 years in the Legal Division, and had been its head for over 15 years, and semi-consciously I had a feeling of this position which I held, that it had its own law and its own basis in itself in a certain sense. It embodied in a certain sense my whole life's work. I would like to say quite clearly that this, of course, is not an objective justification. There are situations in one's life where one feels very unhappy, and yet can not find the strength to decide to put an end to the situation. Perhaps I am being too literal in my terms, but it shows a certain lack of moral

[1] Reference is to the Milch Case, United States *vs.* Erhard Milch, Case 2, volume II, this series.

[2] Reference is to the Flick Case, United States *vs.* Friedrich Flick, et al., Case 5, volume VI, this series.

courage which prevented one to take the necessary step, but rather to be carried and drifted by the events. I can, and should, add a particular personal reason, which was a fact of a purely private and family nature. My wife, under the well-known Nazi terminology was partly of Jewish descent, of mixed descent. You will perhaps understand that on account of this fact I had the greatest anxiety, because I realized very soon the Hitler regime so far as the Jewish question was concerned would never stop anywhere, but rather if there were any other possibilities it would use any and every method in order to drive this question to the extreme, and, I believed that if I remained in office, which seen from the outside was a pretty high one, I might perhaps save my wife, and, of course, myself from the most threatening dangers. That is what I have to say about my attitude today toward this grave question.

Q. What caused you, Dr. Gaus, to decide to tell the whole truth and give assistance to the prosecution in investigating certain crimes of the Third Reich, despite all kind of intimidations you received?

A. Fortunately this question is considerably easier to answer than the last one. From the collapse, on the first day, I can say for certain I considered it absolutely a matter of course to tell you about everything that I knew; what I myself did, and what I experienced myself, and what I had observed I must without any reservation, without any restriction, without any regard for anyone, I must tell the whole truth to the proper agencies. It was my opinion that the old officials, and particularly those who had been in high position, must do everything in the interest of enlightenment of the German public, to tell everything they knew. Since to a very large extent they had carried out the functions assigned to them by the Hitler regime, I considered it a matter of course to draw the obvious conclusion in the interest of enlightenment of the public concerning the character of the Hitler regime, and the causes of the catastrophe. During my stay in the concentration camps* and the Nuernberg jail, I had particular experiences which considerably strengthened me in this conviction. First, the fact that at that time in the fall of 1945 for the first time I encountered the, for me, completely new and entirely incomprehensible legend that Hitler had been absolutely the right man, that his aim had been absolutely right, and that he failed to achieve his great aims only because he had not had the right collaborators, and that reactionary elements by sabotage had prevented his great success. The second matter which I

* The Allied internment camps for war criminal suspects and persons detained for security reasons were frequently called "concentration camps" by Germans who had been detained.

would also openly like to express was that in the case of at least very many cases of my colleagues in the camps and jails, I could clearly feel that they had inner resistance towards telling foreign agencies, that is, agencies of the victors, about German affairs. As a German, of course, I could understand such feelings, but on the other hand I say that I consider these feelings as superficial and unjustified, and that I consider them an ill-chosen patriotism, or a misguided *esprit de corps*.

Q. You gave a number of affidavits to the prosecution, and you have duly sworn to these affidavits. Are these affidavits correct in all particulars?

A. Yes.

* * * * * * *

CROSS-EXAMINATION

DR. BECKER (counsel for defendant von Weizsaecker): Dr. Gaus, before I come to the particular affidavits, I would like to discuss with you a number of general questions which seem to me to be equally important for all the affidavits. First of all, I would like to ask a question which you as an old official in the Foreign Office are particularly well qualified to answer, namely, what were the most important changes in the work of the Foreign Office as a result of the Nazi regime?

WITNESS GAUS: Well, in the first few years after 1933 the Foreign Office kept the same Foreign Minister von Neurath whom it had before, and during these years there were no significant changes, at least, in the manner of dealing with business as compared to the past.

Q. If I may interrupt you, you would say the decisive changes took place only at the time when Ribbentrop became the Foreign Minister?

A. Well, it depends upon whether you are talking about a purely business course, which I infer you are, or whether you are talking about the policy. There the changes become visible pretty early, even before 1933.

Q. I would like to be quite clear. We don't mean the policy, but the ordinary method of business and the way it was handled. There you would say that there the decisive change came about with the appointment of Ribbentrop?

A. Yes, it was at that time that the course of business changed partly.

Q. Dr. Gaus, could you tell us in what way the methods of business changed after Ribbentrop became Foreign Minister?

A. I beg your pardon, I have not quite understood.

Q. Can you tell us in what way the method of business changed at this time?

A. Well, Ribbentrop was working there for the first time in an official capacity. It is true, he had acted as deputy for disarmament questions before, but that had been his only contact with the Foreign Office.

Q. Excuse me, Dr. Gaus, you must speak a little bit slower.

A. Of course, he had no training or experience in business management and was not acquainted with the way to work in the Ministry. Nevertheless, I would not say that in general this effected the handling of business to such an extent that matters were utterly different than from before. It was rather a matter of policy and of personality, too, and not so much in the outer forms in which the business went on.

Q. Is it correct that among the former Foreign Ministers, for example, Stresemann, Curtius, etc., and other Ministers regularly discussed the current political questions with the State Secretary and with the Ministerial Directors?

A. That is perhaps saying a little too much. You must remember, Counsel, that even the Ministers at that time—and I don't want to say anything derogatory—for instance, my good friend Stresemann, was not a trained civil servant. They were members of Parliament, and from a merely bureaucratic point of view they had their shortcomings.

* * * * * * *

Q. Did Ribbentrop, as far as you know, consult the State Secretary and departmental chiefs and inform them about all coming political events, as was customary under the Weimar Republic, and perhaps even under Neurath?

A. If I think this over it is very difficult to answer. Where, for instance, he might have had a State secret which he would not even reveal to his State Secretary,—I could only know if I myself had known the secret—but, if he kept it secret from his State Secretary I believe that I can assume, as a rule, that he would not have told it to me either. So I think that in this respect the general character, which I think is notorious, that is the character of the Hitler regime is decisive. Everybody knows how things went on there.

Q. May I ask you not to refer to "general" matters. This Tribunal did not live in Germany under Hitler, nor did it attend the IMT. It is therefore dependent on witnesses in order to get to know the character of the Hitler regime.

A. All general remarks, Doctor, have a grave disadvantage of not being quite correct; but with this reservation perhaps I can give a more general statement. It is clear that the final major decisions were made by Hitler; but in the sphere of foreign policy it is equally clear that these decisions had to be carried out and

put into reality. Within the framework of his competence of course the Foreign Minister and his diplomatic apparatus had to do this. If a policy was to become a reality, and not merely remain in Hitler's and Ribbentrop's heads, if it was to be realized, it was unavoidable and not possible otherwise, insofar as there was any question of foreign policy at all, it was to be carried out through the Foreign Ministry. On the other hand, of course, this was not possible without the officials being informed. Perhaps it may have happened—but of course this is a quite general remark—that the final aim that Hitler had in mind may not have been quite clearly visible to them. But I would like to repeat, Doctor, all general remarks contain something of a somewhat problematical character.

Q. In this respect I can only agree with you. In the National Socialist State were there any other agencies concerned with foreign policy apart from the Foreign Office?

A. Unfortunately, I am a classic witness on this subject, for my main activity, at least in Ribbentrop's day, was, as I stated years ago, nearly 90 percent concerned with his competency conflicts. It is well known that early in the regime—that was rather in Neurath's days—attempts were made by a multitude of people, not exactly to intervene in foreign policy, but to, I might say, carry out foreign political activity. There was the well-known Foreign Political Office [of the Nazi Party] of Herr Rosenberg. In Neurath's day there was the so-called Ribbentrop Office. And I think I remember correctly that Herr Goering occasionally attempted escapades in the sphere of foreign policy. Nevertheless, there can be no doubt that the decisive steps, especially insofar as they were concerned with execution, could only be made through the Foreign Office. This was all the more the case after Ribbentrop came because that was his main aim. He used to say, to use his own terms, everything that the Foreign Office had lost in the way of terrain under Neurath, he wanted to win back; and with all his passion he fought for this aim in a manner which can only be understood by somebody who actually saw it. I think if I were to tell you details about this you would suspect me of lack of credibility. In this respect I succeeded in preventing interventions into the foreign political apparatus in the main; or at least I succeeded in restricting them.

Q. Dr. Gaus, formerly it was generally known that officials of the Foreign Office were carefully trained in all questions of business procedure, competencies, and secrecy, and that particular value was attached in the Foreign Office to adhering to these rules.

A. Yes, that is correct.

Q. Within the Foreign Office, did Ribbentrop adhere to the

competency regulations with the usual care, so that every official always knew exactly for what he was responsible and competent under Ribbentrop?

A. Well, it is not very easy to answer that clearly and accurately. Perhaps I can start this way. Ribbentrop often used to say, especially in his early days, when divisions were being mentioned, as we were used to calling them, "I don't want to deal with any '*société anonyme.*' I want to deal with men." He was interested only in knowing who the official was and not whether he was in the Legal Division, Division for Trade, or in the Political Division. Perhaps in this case it happened more than with other ministers, but other ministers did it too, that in a special matter they would call one another up and talk directly, instead of through the official channels, and that the ministers would talk directly to the special adviser by phone. I think, in part, this was done more by Ribbentrop than by other ministers; but these officials who were then directly addressed, had to bring the matter through regular channels to their immediate superiors.

* * * * * * *

Q. Dr. Gaus, who was competent under Ribbentrop for maintaining relations of the Nazi Party, the SS, etc., within the Foreign Office?

A. At the beginning the so-called Germany Department was. This department already existed before; there had always been a Germany Department which handled the questions of internal policy in the Foreign Office, which questions were always very few. Under the Hitler regime this office became more important, and it became especially important when Ribbentrop appointed Herr Luther as its chief. Luther took it over in 1939, and this so-called Germany Department was managed by him until February 1943.

Q. Who was Herr Luther?

A. He was a man who came from Ribbentrop's office. As far as I know, originally he was some sort of a businessman, but I can't say for certain. Ribbentrop took him into the Foreign Office, if I'm not mistaken, and he got the Germany Department office right away. But I may be wrong; there may have been a certain interval. At any rate, he did get the Germany Department office, and he built it up into a big department for Germany. As far as I know the main point of it was to deal with questions of internal policy—relationships with the Party and the SS.

Q. Do you believe that Ribbentrop called Luther into the Foreign Office with a special assignment, with regard to internal policy?

A. Yes, it was generally known, or at least it was known among the civil servants.

Q. May I interrupt you, Dr. Gaus? I'm frequently asking you about things here which, of course, the officials of the Foreign Office knew, and perhaps I may know them too, but it's important that in connection with your testimony, as well as your affidavits, you should give the Court, which was not in the Foreign Office, a picture of these things. It will often be necessary for you to explain anew matters which are well-known to you, some of the defendants, and to me.

A. Yes. Well, Herr Luther, as I said, became head of this Germany Department, and, as was known in the Foreign Office, as I shall now explain, he had—I don't know whether only on paper or *de facto*—the task of reorganizing the Foreign Office in accordance with National Socialist ideas. This was an assignment he obtained apart from the functions concerned with the managing of his department. But the then head of the Personnel Division can probably give more authentic information; however, I also know the general details.

Q. Is it also correct that he made this department into something much larger and more important than the office had ever been?

A. That's undoubtedly correct. He pulled a lot of things into the office—matters of a technical and propagandistic nature too, and all sorts of branches which originally had not belonged to it.

Q. So there was a certain change in competencies in the Foreign Office as a result of the appearance of Luther?

A. Yes, certainly in certain important affairs. For instance, with regard to the Legal Division, of which I was at least still formally head, certain questions were transferred from the Legal Division to this Division.

Q. Is it true that Herr Luther did say not only occasionally, but frequently, that he and the Germany Department were responsible directly to the Foreign Minister?

A. I don't think so.

Q. Is it correct that, practically, he sometimes handled matters as though he did?

A. I don't think this was the result of his initiative. It did occur, and I noticed it, that Ribbentrop, as he did with other people, too, would call up Luther directly; but my impression in general was that Luther was a very clever man who attached importance to drawing the operations of the Foreign Office into this sphere of his work. It's difficult to prove. Luther, as far as I know people, was definitely greedy for power, but, on the other hand, he knew for certain that foreign policy, in the proper sense, was a thing he knew nothing about. He openly told me that, so, on this account, he always attached importance to his work.

(Recess)

Q. Herr Dr. Gaus, surely you know that Ribbentrop had a certain close staff of collaborators surrounding him.

A. Yes, but perhaps you shouldn't call it a staff of collaborators. This term was not usually used, but in my previous interrogations, up until now, I called it a definite circle of changing members that surrounded him, whom I used to call his personal Referenten. I don't believe that is the official designation, but nevertheless that is the function that these gentlemen performed.

Q. Therefore, it was a staff of people interpolated between Ribbentrop, so to speak, and the old Foreign Office?

A. Of necessity, that resulted from the fact that during the war, in an increasing measure—and I am unable to give you the exact periods of time involved—he used to be absent from Berlin. The procedure was this; and I am speaking on the whole only, but of course there are always exceptions. Speaking of the Central office of the Foreign Office, as a rule the procedure was that whatever was sent from the central office to Ribbentrop was sent via the daily courier into the so-called field headquarters of Ribbentrop. Then, those officials whom I designated as personal Referenten received this courier, and these Referenten reported to Ribbentrop on these matters. And in the same manner, but vice versa, instructions or questions were sent by Ribbentrop, via the same channel, back to the Foreign Office, unless of course, this was done by telephone. However, there is no difference there, actually. In Berlin—let me say, first of all, that the procedure wasn't as clearly developed, but that is the course that it took eventually.

Q. But wasn't the result of this that decisions were very often made in this field headquarters of Ribbentrop, with the Referenten on the spot there, without the actually responsible Referent being heard on the matter?

A. Well, Counsel, the matter is actually as follows. Those matters which were sent out from the central office to Ribbentrop, of course, had to go through proper channels in the Foreign Office, I mean, Referenten, Department Chiefs, State Secretarial Office, Ministerial Office, Minister. That was the official channel, if the Referent took any part at all, or perhaps it might have been the Departmental Chief who took the initiative, or the State Secretary himself who dealt with the matter. I am giving you the pure scheme of organization. The same, of course, applies vice versa. These matters came back on the same road and arrived at the Foreign Office and reached that level which, in the normal course of affairs, had to deal with these matters.

Q. Therefore, if I understand you correctly, you would say that this separation into field headquarters and central office in Berlin would not have any great influence on questions of jurisdiction or competency?

A. I don't believe that this local separation had any very substantial influence on that. Of course, it is clear and obvious, Counsel, that there is always a difference whether you handle a matter in writing only, in contact with your officials in the central office, instead of doing it in personal, daily contact. Nevertheless, it was easy, if either party so desired, for this disadvantage to be eliminated, by using the telephone, because telephone connections were a very outstanding trait of Herr Ribbentrop, and all of his officials can confirm that. That was his first preoccupation: "For heaven's sake, don't let him have less telephone communications than any other human being in Germany, and never let him be impeded in his telephone communications." Of course, I am giving you this in the way of an illustration; I am not just saying this for the sake of giving you an amusing story. After all, it was very often my fate to use the same train that he used. I know of many examples which would illustrate that a train wasn't permitted to leave from a railroad station because Ribbentrop had to use the telephone from that specific station; at every railroad station his adjutant's first task was to establish telephone connections with the central office in Berlin, and woe to that adjutant who failed to do so in a very few minutes.

I am only giving you this to just illustrate to you that direct and immediate means of contact were, of course, always available, and it was particularly Ribbentrop who used these direct means heavily. Of course, he didn't always adhere to proper channels, but he would telephone whomever he thought he would like to telephone at that specific moment.

Q. You would say that the distinction meant a certain disintegration of proper channels; wouldn't you say that?

A. No, not the proper channels, but a disintegration of the immediate, direct, personal contact. I don't think you could challenge that to be a fact. However, that was a natural consequence of the war, which induced Ribbentrop, whenever Hitler was absent from Berlin, to also leave Berlin the very next day, at the latest, and to retire to his so-called field headquarters.

* * * * * * *

Q. Now, Dr. Gaus, you said that right at the very beginning Ribbentrop had started to assign you as a personal collaborator of his?

A. Well, it is difficult to state a definite time, perhaps it was not quite at the beginning, I am inclined to say, that my collabo-

ration increased gradually. First I was only a chief of the Legal Division, I worked in the Legal Division in the Foreign Office, and this relationship developed in, shall we say an abnormal manner from the summer of 1939 from the trip to Moscow, and then of course during the war which followed immediately subsequent to that. In most instances he took me along in his train together with many other people when he left Berlin.

Q. Is it correct to say that during the first weeks after Ribbentrop had taken office, you were handed a Hitler photograph with Hitler's personal signature on it?

A. I am very pleased you reminded me of that because unfortunately in giving you my personal data and attitude I forgot to state this fact to you, because when I described my convictions and attitude, generally, I omitted to say that in March 1938 I applied to Ribbentrop in proper form to permit me to resign. I did so in view of the fact that two gentlemen there, von Weizsaecker and Woermann received their new appointments at the time, and at the time I notified Weizsaecker of this fact. Of course, the reason I gave was not that I was an opponent of national socialism. I found some sound reason which was a fictitious one, and Ribbentrop did not reject my application, absolutely. He was of course not too friendly, although he said that surely it was not because of my political views, was it, and that he would think it over. After a certain period of time he told me to come to him, and he handed me a letter—"Handschreiben," as it was called—signed by Hitler, together with a photograph of Hitler. It is a definite fact that Hitler didn't know me personally at the time. He had procured that picture in order to make me change my mind about my proposed resignation.

Q. And what did the letter say?

A. I know it almost literally, and it is possible that I even have the letter today. The letter said, "I thank you for your cooperation of many years standing in the interest of equal international rights for Germany, and I trust and I expect you"—at least I am stating it perhaps not quite literally, but this is the sense of it—"and I trust and expect you to continue this activity in the future." When I received this letter, and I should really have told this fact before, I unfortunately stayed in office, as I had no other choice, and concerning this letter again, I emphasize the fact that Hitler didn't know me, and it was clear to me that Ribbentrop had procured the letter pursuant to the application for resignation that I had presented. From certain hints the personnel chief, then Ministerial Director Pruefer, gave me, I heard the fact that he had taken my application, that he had discussed the question with the personnel chief, and if I understood cor-

rectly, that this subject had been discussed with the other departmental chiefs, and This particular solution was found which I, unfortunately, agreed to.

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Q. Did you contribute to the preparation of the notes on the occasion of the march into Norway, Denmark, Belgium, and Holland?

A. Whatever I had to say on that subject is all exhaustively contained in my affidavit. You mean the memoranda that were handed over to the Scandinavian countries, is that what you mean?

Q. Well, let me rephrase my question. Did you contribute to the preparation of the memoranda which were issued on the occasion of the march into Denmark and Norway?

A. It depends on what you understand under notes or memoranda. These were not notes, they were memoranda.

Q. All right, call it a memorandum.

A. The memoranda were identical in both cases as far as I know, but they were not of my origin and they were not drafted by me.

Q. Dr. Gaus, I put a very clear question to you, and I think you can answer by "yes" or "no." Did you cooperate in the drafting of the memorandum issued on the occasion of the march into Denmark and Norway?

A. I believe, after a fair checking of my conscience, that I did not. It is not possible, you cannot always answer a question with yes or no if you want to speak the truth and be completely honest, but it is possible that I may have seen the document and may have suggested a few corrections to Ribbentrop. If you call that participating in the drafting of the memorandum, then I would have to answer in the affirmative. As far as Holland is concerned, I am very well informed on that. I was never able, as far as I remember, to find out for certain who, on that one day or in the interval between either the aftenoon or evening of 6 April and latest the morning of 8 April when the special dispatch had to leave, drafted that memorandum, and I can add, for your information, Counsel, that the prosecution interrogated me on this very point, here in this building, and I have had the possibility to reread in the Courthouse library the memorandum which was published in the press, for recalling facts to my memory. I believe, although I did not have any doubt before, that if one has drafted a document and has forgotten it, if later on, one sees the document, usually that is a reason, in most cases, to remember one's own authorship. Therefore, I reread the document and it appears that anyone who knows my style, which is nothing in

particular, but my official manner of drafting, the language, I would say that in reading this he would know that the author was not Gaus.

Q. Herr Gaus, now, when I spoke of contributing your labor I intentionally did not ask whether you drafted it. I know very well that there is a difference between a person sitting down and making an entire draft, in drawing up an entire memorandum, or when a text is submitted to a person or individual, his making a few changes, or adding a few sentences here and there. I was referring to the latter in my question of contribution.

A. I am obliged to say, under oath, I just don't remember it. I can see immeasurable possibilities existed where I could have written one sentence in the memorandum given to Holland or something to that effect. But of course, if I could read it, I could give you the facts. I have no reasons not to give you these facts. I myself kept asking myself who drafted these things, who wrote them. You must remember that there was only one day in which this was possible, in the evening of the 6th or the following afternoon. As I said in my affidavit, under the chairmanship of Herr von Weizsaecker, the negotiations took place with the military representatives. Now what I remember is that on the 7th I was in House No. 73, and for example, I can see myself sitting there for many hours, while I spoke with the secretaries of Herr von Ribbentrop, and I was checking and proofreading the text. Because Herr von Ribbentrop was, which might be understandable in this case, suspicious that not everything would be done right. For that reason, I checked and proofread the language, the text, that is why I am so well-informed of these facts. But I still see myself sitting there with these ladies, and proofreading these documents, documents which were to be sent by courier to Oslo and Copenhagen, and I had to ascertain their correctness and accuracy.

Q. Herr Gaus, is it right that these notes or memoranda were used by Ribbentrop, that Ribbentrop had these notes not usually drawn up by the legal or divisional staff, but much rather, in the main, he used persons within his own direct sphere in these very specific cases?

A. It is not necessary to give you a general answer, because it is fortunate, in these cases, that they were not numerous. In the case of Denmark, it was not possible for me to get information as to who did the work. In the case of Holland, I know for a fact that Ribbentrop dictated it. At that time, I might have seen it myself, I might have seen it lying on his desk because I was around a lot, and he devoted a lot of time to the actual dictating of the memorandum. The same applies to the case of Russia and those are the main cases.

Q. Herr Gaus, is it right to say that in the three cases specifically cited by you just now, the person who completed the preliminary work did not do it in the Foreign Office, but in the office of the Foreign Minister?

A. As far as Denmark is concerned, I cannot say this under oath.

Q. Now what about the other two cases?

A. In the case of the other two countries, I can only say that Ribbentrop dictated them. I remember, for example, that during those days when Ribbentrop was working on the Russian memorandum, Herr von Weizsaecker telephoned me and asked me whether I knew, he hoped, that this time the war which was imminent might be avoided by means of a memorandum, and whether I knew anything about a document which was being worked out, and I said that I could say "Yes," that I heard from Ribbentrop that he was dealing with the drafting of such a memorandum.

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CROSS-EXAMINATION:

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DR. SCHMIDT-LEICHNER (Counsel for defendant Ritter): Herr Gaus, do you have that affidavit (*NG–3945, Pros. Ex. 254*)* before you?

WITNESS GAUS: You mean that last affidavit on the subject of Holland?

Yes, I do.

Q. Then please permit me to draw your attention to the first paragraph of this affidavit where you say, and I am now quoting, "In the months preceding the attack upon Holland, Belgium and Luxembourg on 10 May 1940, it was common knowledge among the leading officials of the German Foreign Office, including myself, Weizsaecker, and Woermann, that this invasion was imminent." You draw this conclusion from the facts which you specify further down, and now my question to you is, do you wish to apply that to Herr Ritter, too?

A. All I can say is that the term of executives or leading officials is not a technical term, but it's a term which I applied here for practical reasons. Under that term I would always refer to such higher executives in the Foreign Office who had the matters touched upon in this affidavit in their sphere of jurisdiction. For example, in order to make my answer more clear, generally speaking, the chief of the personnel department would also be classified as a leading official. If I chose the term of leading officials here, I wasn't speaking of the chief of the personnel department.

* Reproduced above in this section.

Q. Therefore, your answer to my question would be that you do not wish to include Herr Ritter?

A. I certainly didn't specifically think of Herr Ritter. As far as I remember Herr Ritter at that time had a relatively limited sphere of work, and I can very well imagine that he was not informed on all these details.

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DR. BECKER (Counsel for defendant von Weizsaecker): Dr. Gaus, this affidavit which has already been discussed by my two colleagues, where you speak on several occasions of conferences which you had with Herr Buerkner—

A. Yes.

Q. —and primarily this is the case under item 6 of the affidavit. This conference that you mentioned under item 6, conference with Buerkner, did you discuss this with Herr von Weizsaecker and Woermann?

A. I have already thought about this question before. I am unable to reconstruct it from my memory with absolute certainty, but I assume that this is more or less correct and I say so for a very special reason because, if I am not very much mistaken, Buerkner, who at that time I either didn't know at all or only knew very superficially, on the occasion of his visit said that an official of the Foreign Office—and I think he gave the name of Herr von der Heyden-Rynsch—had caused him to see me once in connection with that matter.

Q. Herr Dr. Gaus, now one very specific question. Do you know it for a fact that you discussed with Herr von Weizsaecker and Herr Woermann this conference with Buerkner?

A. With Herr Woermann, no, I don't think I did. Herr von Weizsaecker, I think it is probably the case.

Q. Dr. Gaus, you force me to ask you over and over again, if I ask you, do you know it for a fact? Therefore, I don't ask you whether you think it was probably the case, but I ask you whether you know it for a definite fact. It is a question which requires a very clear answer and can be given a very clear answer.

A. It is my opinion that there are questions which you cannot simply answer by saying yes or no because neither of the two answers would comply. There are questions which you have to answer with cases of probability or possibility.

Q. Herr Gaus, I don't wish to argue with you on definitions, but if I consider a thing to be probable, then I am not sure what it is. At least that is the way we Germans use these words in the German language. Therefore, now if you are asked whether you know a thing for a fact and you don't, then you can answer with a clear no.

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A. I don't think I have anything more to say to what I said before.

Q. Herr Gaus, now if you don't know it for a fact, whether you discussed this conference, item 6 of your affidavit, with Herr von Weizsaecker and Herr Woermann, then why did you include item 6 under the nine items as being known to all the leading officials?

A. If I am not mistaken I said—

INTERPRETER: We didn't get that, Your Honors.

COMMISSIONER MAGUIRE: Do you want the question repeated?

INTERPRETER: Yes.

COMMISSIONER MAGUIRE: Please repeat the question.

DR. BECKER: Herr Dr. Gaus, if you don't know it for a fact that you discussed the conference with Buerkner, mentioned under item 6, with Herr von Weizsaecker and Herr Woermann, then why did you include this item 6 among the nine items which, according to your opinion, should substantially have been known to all leading officials?

A. I had to include this item 6 together with the other items because it wasn't I who asked Buerkner to come to me, and I considered it out of the question that Buerkner, upon his own initiative, should have called upon an official he didn't know as yet and submit this very delicate matter to him. It is my opinion that he could only have taken such a step in the manner that I described before, and therefore this reason forms part of this entire set of problems covering the symptoms of the imminent invasion. That is my opinion at least.

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Q. On Page 7 of your affidavit you say: "It goes without saying that each leading official of the German Foreign Office was aware of the preparation of the couriers and must have realized that something extraordinary was about to happen."

A. What page is that, did you say?

Q. It's on page 7 of the original. It is the paragraph beginning with the sentence, "About the 4th of May, three [six] couriers were selected."

A. Yes, I have it now.

Q. Now, there is the sentence, "It goes without saying that every leading official of the German Foreign Office was aware, etc."

A. Yes, I maintain that this is so—"leading official" is understood in the way that I explained it when answering the questions of Ritter's defense counsel.

Q. Dr. Gaus, why is a curfew being instituted in the house Wilhelmstrasse No. 73? Why are very careful measures of

secrecy being taken—and you know these measures were usual under Hitler? Now, why was all this undertaken when, after all, you can see, then, that it is certain that each higher official knew about it, or was enlightened about it?

A. For the mere reason that, knowing the conditions in the Foreign Office, I deem it absolutely impossible that six officials of the higher service are being chosen and are being sent to the Foreign Minister, in spite of the house arrest, without the rumors spreading immediately to most of the personnel.

Q. Were the leading officials informed by Ribbentrop about it, or do you think that it did spread like a rumor?

A. The fact that Ribbentrop actually officially informed these officials I do not assume. I only maintain that it is absolutely certain, as far as I am concerned, that the choice of six couriers could not be kept a secret. That is quite impossible, and that is the childishness of this entire house arrest which made the matter public rather than to keep it secret. It was only for Ribbentrop, who was very much afraid of Hitler, to say, "All my secretaries and technical personnel are under house arrest so that they cannot reveal the date of the action or the fact that it is going to take place." But that cannot change anything of the fact concerning the state or the condition of the information of the leading officials, and it does not change anything of what I said before.

Q. Do you think it was Ribbentrop's intention to have these leading officials informed of this courier message?

A. I never had the opportunity to see Ribbentrop about that and I do not know.

Q. But you just spoke about the reason for this house arrest, namely, to make a certain impression on Hitler.

A. But you asked me about an intention, whether he had any intentions towards other officials, whether he wanted them to know it or not. I don't know that.

Q. Now, do you know for certain that all the other higher officials found out about this courier message, or is that just an assumption on your part?

A. It is an assumption, a conclusion, based on the knowledge of conditions in the Foreign Office.

Q. At page 5 of your affidavit, after giving the list of the nine points, you say: "These facts, combined in these nine points, gave the impression in our office that they related to preparations for an imminent invasion of," and so on. Now, at the beginning of the entire affidavit you stated that, among the leading officials, it had been generally known that the invasion was imminent.

Now, do you want to say that it was generally known, or do you want to say that the impression was created? You see, here are two different statements.

A. Please forgive me, Doctor, if I say now that I wrote this affidavit, not thinking that its syllables would once be split in such a manner. As long as a military plan is not carried out, it remains merely a plan, and I can say it was known to us that this was imminent or that it was planned. As long as it has not happened, one can't say we knew it was going to happen. And, in order to give a true and faithful picture of the conditions in the Foreign Office, one can use a number of terms of manners of speech. There can be no doubt about the sense which I meant to express.

Q. Dr. Gaus, I am putting this question to you because you are known for your excellent terms of speech, and I do not assume that you just put in some sentences which you had not thought about thoroughly in an affidavit. After all, you thought about it before you put it down. Now I must say the following: Speaking about facts, there is a difference between whether they are known to me or whether I drew a conclusion from certain facts.

A. Well, I can't see this difference.

Q. In conclusion, so far as this affidavit is concerned, I would like to ask you this: Is it correct to say that as early as after Christmas 1939, Ribbentrop informed you that extensive material had been put at the disposal of the Foreign Office concerning alleged violations of neutrality?

A. I am afraid I cannot give you the order of the various elements as they occurred, taken out of the complete order; I cannot tell you the exact time or period in which they cropped up. What I want to say here is that it was not immediately after the incident in Venlo; I think it must have been after Christmas, very soon after Christmas.

Q. Is it correct that Schellenberg only negotiated with you, of all the people in the Foreign Office?

A. Here in prison—that is, afterwards, when we were in the witness wing together—Schellenberg told me, when we came to speak about our first acquaintanceship, that as far as the final wording of the memorandum was concerned, he discussed this with Ribbentrop personally, too, but I do not know whether he talked to any other official in the Foreign Office.

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TRANSLATION OF DOCUMENT WEIZSAECKER 370
WEIZSAECKER DEFENSE EXHIBIT 122

MEMORANDUM SUBMITTED BY DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 12 OCTOBER 1939, ENTITLED "MILITARY-POLITICAL ACTION AFTER THE FAILURE OF THE PRESENT PEACE ACTION," AND HANDWRITTEN NOTES BY VON WEIZSAECKER CONCERNING SUBSEQUENT CONFERENCES WITH VON RIBBENTROP

Military-Political Action after the Failure of the Present Peace Action

I. It is England that opposes peace. This opposition must be broken, by either—

a. A direct attack on England, or

b. By splitting off France.

On no account should England get additional allies. *Concerning a*) In order to be successful, the direct attack on England on the sea and in the air would have to be considerably intensified. The military agencies would have to judge how far the intensified utilization of arms would be effective from a military viewpoint, and the political leadership on whether the military effect would be in an appropriate proportion to the political effects.

Without wanting to anticipate the proper military judgment, the following is an accomplished fact in my opinion:

1. The submarine and surface economic warfare, in consideration of the present number of warships, is not able to interfere with the British supplies from overseas to such an extent as to compel Great Britain to assume a conciliatory attitude, even if enemy and neutral ships are sunk without warning. The German submarine building program will be able to meet the requirements only after a considerable time.

2. The war in the air against the British supplies from overseas can likewise not be conducted effectively this winter.

3. Even a combination of points 1 and 2, meaning the intensified war on the sea and in the air against the British sea lanes would be inadequate today. Any such waging of the war must be undertaken with sufficient means and with lightning speed lest it peter out.

4. In consideration of the structure of Great Britain, air raids on the vital targets on land would not give much hope for dealing a deadly blow to Great Britain.

Apart from the military reasons there are also political viewpoints which forbid the starting of the unlimited war by submarines and in the air in the near future. This manner of war-

fare would force the neutral seafaring states into the arms of Great Britain. The United States would presumably soon break their relations with us. Psychological and material reverses similar to those of 1917–18 would be unavoidable as a consequence of the unrestricted submarine war. For this reason we would make new enemies without being in the possession of arms which would force Great Britain to her knees.

Concerning b) For splitting off France from Great Britain by force and to induce her to conclude a separate peace, an offensive against France on land would be necessary. According to my information, the success of a frontal offensive along the border between Germany and France would come too costly. An offensive through Belgium would perhaps result in bringing this country into our hands, but would not open the road for an entry into France. We would only have a new, just as long and only much weaker defense line than we have today. The extension of the war theatre would benefit only France and not us. Both methods—the frontal and the flanking attack—will not lead to the military target and would only awaken the fighting spirit of the French citizen and soldier which is still dormant today. Whether the possession of Belgium would actually be indispensable and decisive in the war in the air against Great Britain, must be left open.

From political viewpoints, the entry in Belgium would earn us only all the disadvantages with which we are sufficiently acquainted from the year 1914.

II. Obviously, our strength lies in the defense. It is nearly impregnable. It gives us the wanted military security. It saves our material. It helps us to keep the neutral groups intact.

Our enemies will hardly want to attack the Siegfried Line.

But if they lose their nerve and attempt an offensive through neutral countries, the disadvantages would be theirs. An offensive through Switzerland is out of the question, according to military opinions, but an offensive through Belgium is possible. In this war, the Belgian people have little friendship for Germany, but, on the other hand, the attachment to France is not great enough for them to offer their country as a war theatre. If the Western Powers invaded Belgium, the German entry from the other side would be a matter of course and easier than it would have been otherwise. As to politics, the neutrals would side with us.

If the enemy does not commit the grave error of violating the neutrality in a serious manner, then we can hope that the constant inactivity of a defense on both sides will slowly weaken the

will to fight in France until it dies. And that would open the road to peace.

III. The decision on whether we had better remain on the defensive in the West or start an offensive after the conclusion of the Polish campaign is a matter of politics to a large extent.

An offensive would be indicated if it would bring the war to a speedy end. But there is no promise for such a success. The risk and the political effects would not be in harmony with each other. The defensive offers certain prospects for peace. It goes without saying that the defensive is also a test of our nerves as well. Nevertheless, with Poland we have a pawn in our hands, while the enemy still has to procure such a pawn.

The offensive would be the beginning of the struggle for life or death. And the third parties would have the last laugh. The defensive still leaves us the possibility of a negotiated peace. Pending developments, I believe that the defensive should be maintained.

[*Note*—To this point the document is an original typewritten memorandum with some pencilled corrections written in the handwriting of defendant von Weizsaecker. From this point the document is in the handwriting (ink) of defendant von Weizsaecker and on a separate sheet.]

Having received information that a general offensive with an invasion of Luxembourg, Belgium, and Holland was being prepared in the beginning or in the middle of November, I submitted a brief memorandum to Herr von Ribbentrop on 12 October 1939, in which I discussed the military plans for the 6 winter months from the political viewpoints and in particular advised against the invasion of the three neutral countries.

On 12 October we had a conference on this matter during which Herr von Ribbentrop briefly mentioned the reasons pro and con, but spoke dispassionately, saying that fate must not be provoked or something to that effect. He also was of the opinion that the Chamberlain speech of 12 October offered a suitable starting point for further peace talks, until the Fuehrer, in the evening, gave vent to an opposite opinion.

Since I had no discussions any more in the meantime, but received information about the plan of the offensive which became more and more definite, today in Dahlem, in the house of the Minister, I again led the conversation to this topic and emphasized my previous statements. But I soon found that Herr von Ribbentrop was not inclined to go deeper into this matter. He said that my memorandum was a concept which was similar to the terminology of the Anglo-French propaganda, which, if

considered closely, did not want us to strike before the spring of 1940 when the full war production of Great Britain would become effective on the Continent. The reproach of being a defeatist sounded again as in the fall of 1938. Herr von Ribbentrop talked about *his* responsibility which I had better leave to him. "We will not discuss this matter any more."

I countered with the remark that I was sorry to hear this because I was in the possession of arguments which were important in my opinion but could not be discussed in such haste, of course.

Herr von Ribbentrop concluded our conversation with a gesture which unmistakably expressed his desire not to be bothered any longer with this matter.

By chance Herr Gaus witnessed this incident.

26 October 1939

PARTIAL TRANSLATION OF DOCUMENT NG-4510 PROSECUTION EXHIBIT 1142

OFFICIAL REPORT* OF THE DUTCH FOREIGN OFFICE, APRIL 1940, CONCERNING THE "FRONTIER INCIDENT NEAR VENLO"

Survey of the Most Important Matters Handled in Connection with the State of War by the Foreign Office and Suitable for Publication

November 1939–April 1940

[Seal]

April 1940

The Hague—General Printing Office—1940

* * * * * * *

FRONTIER INCIDENT NEAR VENLO

In the middle of October, the Chief of the Intelligence Branch of the General Staff was informed by the Secretary of the British Embassy, chief of the British passport checking office at The Hague, Major Stevens, that certain British bodies [organen] were in contact with high officers of the German forces, and that Major Stevens had received instructions from London to the effect that he was to have a discussion with these officers with the object of finding a basis for possible negotiations of peace. In order to substantiate his statement Major Stevens showed his instructions to this effect. It being impossible to discuss the

* The original of this document is a photostat of an excerpt from the official printed report of the Dutch Ministry of Foreign Affairs, dated April 1940.

matter in Germany or England, it was thought desirable to have the discussion take place in neutral territory, preferably not far from the German frontier. Major Stevens said that Captain Payne Best had been assigned the task of discussing the subject together with him. He asked for the necessary measures to be taken in order that the foreigners concerned would not be hindered unnecessarily by police or military authorities. In compliance with this request and in order to ascertain what was going to be discussed, the chief of the Intelligence Branch assigned a Dutch officer, the First Lieutenant Klop, to be present at the discussions and ordered him to see to it that no act conflicting with Dutch neutrality would be committed.

On 9 November a motorcar coming from Venlo, in which in all probability were seated Major Stevens, Captain Payne Best, Lieutenant Klop and the Dutch driver, Lemmens,* arrived at the Café Backus, lying on Dutch territory at a small distance from the German frontier. Upon arrival the persons mentioned were assaulted by a number of persons who had a car at their disposal, which was waiting for them in front of the German customhouse, and who started firing at them. One person, apparently Lieutenant Klop, was shot, the other persons being taken across the German frontier by force. The wounded or dead person was also dragged across the frontier. The whole event took so little time that it was not possible for the frontier constabulary, of which no members were in the direct vicinity of the place, to interfere with this action in time.

As the persons who carried out the attack were in civilian clothes, there was initially no reason to hold the German Government responsible, but a request was made immediately to the German Government to investigate the affair. However, on the day when a German press communique stated that the assault had been carried out by German bodies [organen], serious objections were raised against the activity on the part of the Germans and an explanation was invited. These steps were not answered by the Germans, notwithstanding the fact that the subject was repeatedly reverted to. Thereupon the Dutch Embassy in Berlin informed the German Government on 25 January that it was impossible for the Dutch Government to leave matters as they were. A proposal was made to the German Government to the effect that the event, which had taken place near the Dutch-German frontier off Venlo, would be submitted to a body of persons to be commonly decided upon, such as a Dutch-German committee especially to be created for this purpose, the existing

* Jan Frederik Lemmens appeared as a prosecution witness. See transcript, 18 February 1948, pages 2050–2063.

Permanent Conciliatory Committee of the two countries concerned, some arbitral body or an international justiciary body, the choice being left with the German Government. This proposal too has been left unanswered by the German Government, notwithstanding the fact that it was reverted to a few times.

PARTIAL TRANSLATION OF DOCUMENT NG-4672 PROSECUTION EXHIBIT 1146

EXTRACTS FROM A JOINT REPORT OF FRICK AND HIMMLER, 29 MARCH 1940, CONCERNING THE VENLO INCIDENT

Copy

Berlin, 29 March 1940

The Reich Minister of the Interior

Report

* * * * * * *

Best received the following order:

Intensification of contacts with the German opposition. If possible, negotiations with a high plenipotentiary who represents all opposing elements in Germany. Aim of the negotiations was to be—Complete political overthrow in Germany, elimination of the Fuehrer and his closest collaborators, peace treaty based on British war aims, that is return to the status quo, especially in respect to Czechoslovakia, Austria, Danzig, Poland, etc. The basic idea was that England, who feared that she would not be able to fight the war on the battlefield, wanted to gain a decision in her favor by an internal German revolution. In this, England was following her former ideas.

The SD of the SS and the Secret Police were informed of these plans in time by their intelligence agents. They entered into the negotiations and reported the matter to the Reich government. The Reich government ordered the continuation of the play with these revolutionary plans hoped for by England up to the point of and including the arrest of the British intelligence officers for purposes of documentary proof.

Stevens recognized the great political significance of these negotiations and made efforts to get the London central office (Sinclair or Halifax) to transfer the negotiations to Sir Blend, the British Minister in The Hague. In agreement with the Minister, London rejected this transfer and gave orders to the British Intelligence Service to continue negotiations, requesting continuous telephonic and telegraphic reports.

* * * * * * *

In order to maintain the secret of the partnership of neutral Holland with England in these negotiations for the overthrow, even vis-à-vis the German agents, Klop, the officer of the Dutch General Staff, received orders from General van Oorschot, to pose as an English officer and assume the pseudonym Captain Copper.

As a result of Klop's mediation and support, it was possible to bring about five meetings between Stevens, Best, Copper (in reality Klop) and the German agents. These meetings took place on—

21 October at Zutphen and Arnhem.
30 October at The Hague.
7 November at [Café] Backhus [Backus], near Venlo.
8 November at Backhus, near Venlo.
9 November at Backhus, near Venlo.

Copper/Klop was present at all these meetings, took an active part in the negotiations and removed all difficulties of control on the part of the police and—in the case of the Dutch territory of operations and flooded territory at the German border—he also removed the difficulties of control by the military by his personal intervention. Copper/Klop also brought about the release of the alleged agents of the German opposition when on one occasion they had been arrested on Dutch territory for the purpose of establishing their identity. He also handed these German agents a certificate signed by Copper, in which all Dutch agencies were requested to afford the bearers an opportunity to call a secret number in The Hague (556331). This is the number of the British Secret Service.

According to his own testimony and the testimony of the Englishmen, Klop/Copper had advised caution for the last two meetings, had ordered a larger number of Dutch secret police and would even have preferred bringing in Dutch military guards for the final meeting. It was he, too, who was the first to open fire when he recognized the unpleasant consequences his arrest might have.

The basis for the negotiations were instructions which had been given by the British Government to Best over the radio and which were passed on by Best to the German agents. These instructions were based on the following British proposals: elimination of the Fuehrer, elimination of the present German Government, as well as of all the leaders, and substitution of a government approved by England. In the negotiations demand was further made that Germany give up her present economic policy and return to the gold standard.

It was evident from these negotiations that the basic aim of the British demands was not only a return to the Versailles system but even going beyond this the dissolution of the Reich and the establishment of a system of federal states. Germany was to be made impotent for all time. The German agents appeared to agree to this plan but they made it subject to approval by the leadership of the German resistance. Following this they were requested by the Englishmen to produce a high plenipotentiary who would meet once more with the British agents in Holland.

After the British agents had reported the course of the negotiations to the British Government by way of Mr. Stevens putting through a telephone call to London in the presence of one of the presumed German resistance members, the head of the British Intelligence Service, at the time, Admiral Sinclair, stated by telephone that the British Foreign Minister, Lord Halifax, had agreed to the course of negotiations so far. To make it less dangerous to keep up communications Stevens left an English transmitting and receiving set and a secret code, in order to facilitate communications with the British radio control station situated in The Hague, which was operating under the *Belgian call sign ON 4*.

By pretending that at the border there existed the danger of their being observed, the Security Service of the Reich leader SS and the Secret State Police succeeded in execution of their order and lured the Englishmen three times into a tavern at Venlo, known as a hang-out of smugglers, which is situated 10 m [meters] from the official frontier. After a gun-duel, they arrested there the two British intelligence officers, the seriously wounded Dutch General Staff officer and the British intelligence officers' Dutch driver, Lemmens.

Firmly convinced of being in contact with a "German resistance group" Stevens' representative in The Hague, Capt. Hendricks, still informs the supposed German resistance group at 1230 p.m. on 16 November 1939—that is 7 days after Best and Stevens' arrest—that "the previous day's radio message of the German resistance group had been received, that they were ready as before to continue negotiations on the basis laid down in the conversations, that, however, Prime Minister Daladier had to be consulted first and that, owing to the new developments, special precautions had to be taken at the next meeting."

* * * * * * *

The Reich Minister of the Interior
Signed: FRICK

The Reichfuehrer SS and Chief of the German Police
Signed: HIMMLER

PARTIAL TRANSLATION OF DOCUMENT NG-5347
PROSECUTION EXHIBIT 3892

MEMORANDUM FROM THE FILES OF THE HIGH COMMAND OF THE ARMED FORCES, 4 NOVEMBER 1939, CONCERNING PREPARATIONS FOR THE ADMINISTRATION OF LUXEMBOURG, BELGIUM, AND HOLLAND, AND THE DRAFT OF A FUEHRER DECREE FOR PUBLICATION "ON THE DAY OF INVASION"

Berlin, 4 November 1939

[Stamp] Top Secret
Matters for the Chief

L IV

[Stamp] Top Secret
Only through Officer

Subject: Administration of the Occupied Territories in the West

Memorandum

[Initial] K [KEITEL]

Attached hereto are submitted:*

1. *Special Regulations for the administration of the occupied territories of Luxembourg, Belgium, and Holland.*

Armed Forces Signal Communications, Armed Forces Propaganda, Counter Intelligence III and Economic Staff have all been given a part in the regulations in their respective domains. The regulations have furthermore been discussed with the Army High Command (Chief of Supply and Administration) and correspond to the intentions of the Army High Command for the setting up and the handling of administration.

The issue of the special regulations to the branches of the Wehrmacht is to take place immediately after they have been signed by the Chief, High Command of the Armed Forces.

2. Draft of a Fuehrer Decree for the publication of the principles for the military administration in the West, addressed to the interested Supreme Reich Authorities. The draft will also be forwarded to the Army High Command for coexamination.

It is proposed that after this the draft be held in readiness so that it can be transmitted to the interested civilian authorities on the day of invasion. Its purpose is to bring unequivocally to the notice of the civilian authorities the position of the military administration and the closing of the border.

[Initial] W [WEDEL]
4 November
[Initial] W [WARLIMONT]

* The enclosures mentioned were not a part of the document submitted in evidence. The balance of the document which is not reproduced here contains a number of later memoranda containing further details of the preparations.

TRANSLATION OF DOCUMENT NG–1726
PROSECUTION EXHIBIT 243

CODED TELEGRAM FROM THE GERMAN AMBASSADOR IN BRUSSELS TO THE GERMAN FOREIGN OFFICE, 8 NOVEMBER 1939, CONCERNING REPORTS ON A JOURNEY OF KING LEOPOLD TO HOLLAND AND ON BELGIAN INFORMATION AS TO GERMAN PLANS AND TROOP CONCENTRATIONS

Top Secret Telegram

(secret cypher)

Brussels 8 November 1939, 1456
Received 8 November 1939 1815

No. 327 of 8 November

Have just heard from a reliable Dutch source that a journey to The Hague has been undertaken by the Belgian King owing to threatening news received concerning the German preparations for attack near the Belgian and Dutch border. King is said to have stated in The Hague that he is in possession of exact information concerning the formation of German units, which from the military point of view show every intention of attacking. Hitherto it only concerned billeting of large troop formations which had been released in the East. In the last few days however, regrouping is said to have taken place which represented a strategic concentration for attack.

According to the King's information this concentration had been completed in about 2 to 3 days so that from then onwards the attack could ensue at any moment. From the foregoing description of the Dutch confidential agent it is seen that it concerns a Belgian-Dutch offer of negotiation for action, which originated from the initiative of the Belgian King and the fear of being precipitated into a war.

BUELOW

TRANSLATION OF DOCUMENT NG–5434
PROSECUTION EXHIBIT 3668

MEMORANDUM FROM HEWEL TO DEFENDANT WOERMANN, 22 NOVEMBER 1939, CONCERNING THE RESULTS OF A HITLER-VON RIBBENTROP DISCUSSION ON FLIGHTS OF GERMAN AIRCRAFT OVER DUTCH TERRITORY

Personal Staff of Reich Foreign Minister
Senior Legation Counsellor Hewel

Memorandum for [Under] State Secretary Woermann

The Minister yesterday discussed with the Fuehrer the draft of the reply to the Dutch Government concerning the *crossing of Dutch territory by German aircraft.* The Fuehrer subsequently instructed me to issue the following order:

1. In future, all flights by German aircraft over neutral territory will be denied [abgeleugnet], unless they can be proven beyond doubt, for example, through crash or parts of the aircraft which are found, etc.

2. If any such flights can be clearly proven to have taken place, a decision will have to be made in each individual case as to what is to be done.

3. The Reich Minister requests [Under] State Secretary Woermann to submit to him as soon as possible an exact list of flights over Holland and Belgium by German aircraft and a list of flights over those countries by enemy aircraft.

Neither of the drafts is to be dispatched
[Handwritten]: To Under State Secretary Political Division [checked]
Distribution list: State Secretary [initial] W. [Weizsaecker] [22 November]
Office of Reich Foreign Minister

Berlin, 22 November 1939

Signed: HEWEL

TRANSLATION OF DOCUMENT NG–4691
PROSECUTION EXHIBIT 1144

CONFIDENTIAL DIRECTIVES TO THE GERMAN PRESS, 23, 24, AND 25 NOVEMBER 1939, CONCERNING THE HANDLING OF THE VENLO INCIDENT

Extracts from "Oberheitmann Material,"[1] Volume III (Document NG–3800).

Page 324, Oberheitmann Volume III.

Confidential Information [V.I.] No. 268/39[2]

23 November 1939

2. The fact that the members of the Secret Service who were seized on the Dutch border were at the same time members of a diplomatic mission in Amsterdam must not be mentioned for the time being. The same holds true for the Dutch press reports which portray the history and the activity of these agents in Holland. The early release of official material is to be reckoned with and this should not be anticipated by individual statements.

Page 320, Oberheitmann, Volume III

Confidential Information No. 269/39 24 November 1939

3. The opinion of the Dutch News Bureau concerning the incident at Venlo, at which, as is well known, the two members of the Intelligence Service were seized, should not be taken up.

Page 318, Oberheitmann, Volume III

Confidential Information No. 270/39 25 November 1939

2. In English and Dutch reports concerning the seizure of the two men of the Intelligence Service it is claimed, among other things, that they were lured to Venlo in order to engage in discussions concerning possible peace terms with German representatives. From there the Dutch are supposed to have learned of this meeting and to have sent an officer to Venlo. In this form the report is not to be taken up in any way.

[1] The "Oberheitmann Material" consisted of voluminous press directives and related materials collected by Theo Oberheitmann, a German newspaper editor, and preserved in the face of official directives that they were to be destroyed after use.

[2] "V.I." stood for "Vertrauliche Information," literally translated as "Confidential Information."

TRANSLATION OF DOCUMENT NG–2615
PROSECUTION EXHIBIT 248

THREE MEMORANDUMS OF THE GERMAN FOREIGN OFFICE CONCERNING INQUIRIES BY AMERICAN AND DUTCH REPRESENTATIVES ON THE VENLO INCIDENT, 15 AND 18 MARCH 1940

1. Memorandum of Auer to Defendants von Weizsaecker, Woerman and Others, 15 March 1940

Note

The Second Secretary of the American Embassy, Mr. Riddleberger today called on me in my capacity of acting England Referent in order to make inquiries concerning the fate of the British subjects Best and Stevens, who were arrested during the Venlo incident. Mr. Riddleberger emphasized that his Embassy has been instructed by its government in its capacity of protecting power for British interests in Germany, to inform the German Government verbally and confidentially of the British Government's opinion, that the German Government when following up this incident must "bear in mind the widespread allegation that these British officers were forcibly taken on neutral territory and the effect on world public opinion which the carrying out of extreme penalties might imply."

Mr. Riddleberger asked for an answer to the memoranda of 25 November and 4 March—No. 79—in this matter.

I have replied to Mr. Riddleberger that the incident is not known to me, but that I would transmit his communication to the competent authorities for further examination.

Berlin, 15 March 1940

[Signed] AUER

State Secretary Weizsaecker [Initial] W [Weizsaecker] 18 [March]
Under State Secretary, Political Division [Woermann]
Under State Secretary, Legal Division [Gaus]
Political Division II

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2. Memorandum of Defendant von Weizsaecker, 18 March 1940, concerning a conversation with the American Chargé d'Affaires

State Secretary No. 236 Berlin, 18 March 1940

The American Chargé d'Affaires today handed me the attached memorandum* concerning the two British officers who were

* The "attached memorandum" was not a part of the document registered as Document NG–2615, and is not reproduced herein.

9337640—51——79

arrested in November of last year on the German-Dutch frontier. This memorandum refers back to a step of the American Embassy of 25 November last year.

The Chargé d'Affaires added that he did not hand me this memorandum without having once more been expressly instructed by Washington to do so. I replied to Mr. Kirk, without having read the memorandum in his presence, that I found it slightly naive of the British Government, that it is altogether doing anything in favor of the two British subjects in this unsavory affair.

Mr. Kirk intimated to me that he has similar ideas on the matter.

Herewith—Through Under State Secretary, Political Division to Under State Secretary, Legal Division

(Signed) WEIZSAECKER

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3. Memorandum of Defendant von Weizsaecker concerning a visit by the Netherlands Minister, 18 March 1940

St. S. No. 237 Berlin, 18 March 1940

The Netherlands Minister today once more saw me about the Venlo affair. He inquired whether I could give him any new information.

I gave him the stereotyped negative reply. [stereotyp verneinende Antwort]

(Signed) WEIZSAECKER

Reich Foreign Minister.
Under State Secretary, Political Division
Under State Secretary, Legal Division

TRANSLATION OF DOCUMENT NG–2790
PROSECUTION EXHIBIT 246

MEMORANDUM FROM DEFENDANT WOERMANN TO DEFENDANT VON WEIZSAECKER, 13 JANUARY 1940, CONCERNING FURTHER INQUIRIES BY THE BELGIAN AMBASSADOR ON FLIGHTS OF GERMAN AIRCRAFT OVER BELGIAN TERRITORY

Berlin, 13 January 1940

The Belgian Ambassador told me today that he wants to call on the State Secretary in the question of the continued instances of flights of German aircraft over Belgian territory. In particular he criticized that we had left former complaints unanswered, which places him in a difficult position towards his government.

Also Counsellor of Embassy Count Berryer spoke to me repeatedly about these flights over Belgian territory, which, he says, continued up to the last days.

The Air Force Operational Staff has been requested to give us a plausible explanation for Belgian consumption [plausible Darstellung fuer den Gebrauch der Belgier].

Herewith submitted to the *State Secretary*

[Initial] W [WEIZSAECKER]

[Signed] WOERMANN

Copy to—

Bureau Reich Foreign Minister
Dirigent Political Division
Political Division II
Political Division I M
[Handwritten] Belg.

TRANSLATION OF DOCUMENT NG–2893
PROSECUTION EXHIBIT 247

FOUR MEMORANDUMS OF THE GERMAN FOREIGN OFFICE, 15, 17, AND 22 JANUARY CONCERNING CONTINUED FLIGHTS OF GERMAN AIRCRAFT OVER BELGIUM, BELGIUM'S POSSESSION OF GERMAN PLANS FOUND IN A CRASHED GERMAN AIRCRAFT, AND RELATED MATTERS

1. Memorandum of defendant von Weizsaecker, 15 January 1940, concerning a visit of the Belgian Ambassador

St. S. Nr. 47 Berlin, 15 January 1940

Secret!

After the Belgian Ambassador had asked on Saturday to be received by me I received him at noon today.

Count Davignon started immediately to talk of the numerous occasions when our planes were guilty of flying over Belgian territory recently. He hopes for a plausible explanation on my part, especially as our answer to the Belgian complaints of the more distant past is also still missing. I promised an early reply to the Belgian complaints of the months of November and December to the Ambassador. Our investigations would always be most thorough and would, therefore, frequently take quite some time. We had the desire to really clarify the subject in every case and did not think of consciously delaying our explanation. To the contrary, we are prepared to acknowledge a violation of the border, if it was confirmed also by our side, and would not hesitate to express our regrets.

After we had concluded this subject within a few minutes I told the Ambassador that I, on my part, would possibly have asked him today, if he had not announced himself by chance. It happened, I said, that I had had submitted to me a series of reports of the foreign press on Belgium this very morning, all of which showed a shocking state of excitement and of a military activity which was one-sidedly directed against Germany. The Ambassador frankly admitted this. This was the third step in the military preparedness of Belgium. The fourth and last step, however, was not yet reached. It may be that Belgium would be better off if it had already before completely mobilized, just as Holland and Switzerland had done. For it was true that the present measure must give to us the impression of a special alarm.

After this I asked the Ambassador to give me the reasons which would impel his government to take such steps.

The best means to create a crisis are conditions of excitement as created by Brussels. It was the right and the duty of every neutral country to prepare its defense, but not to strengthen this defense one-sidedly against one of the belligerent parties.

Then Davignon came into the open with the reasons which made Brussels worried of a German invasion. First he spoke of his own information. He would, however, be very cautious in forwarding them to Brussels and weigh them carefully:

a. Everybody in Berlin speaks in the open street of the German invasion of Belgium and Holland. I answered this point by saying that Brussels should not, after all, be influenced by the gossip in the street.

b. The Embassy continuously received anonymous letters dealing with the planned invasion. Davignon himself did not put any decisive emphasis on these.

c. The colleagues of the diplomatic corps were already paying him visits of condolence. Davignon pretends at least that he reprimanded the visitors.

d. The flying over Belgian territory during the last days would even disconcert him—Davignon himself.

I replied to it by saying that such individual basis never permitted such far-reaching conclusions even if they were true. The Ambassador denied my objection that English and French planes were certainly also seen at the Belgian frontier and had crossed it in flight. The Frenchmen and Englishmen had been very cautious recently.

e. Davignon told me confidentially that a German member of the Economic Delegation had told a Belgian member of the Delegation that our aerial photographs proved that 300 unused and empty freight cars are standing in a Belgian village (X). I told

Davignon about this story that it certainly would not be in keeping with the facts.

At best it was just a bluff in order to cause the Belgian delegation to put more freight cars at disposal.

After these experiences of the Belgian Embassy proper, Davignon presented the following as the presumable reasons for his government's worries:

f. Supposed German troop movements, next to the Belgian frontiers. He conceded that the Embassy knew comparatively little of them.

I told Davignon he should inquire how things look at the French-Belgian frontier, whether there are not great numbers of French and English units massed. The danger point would be right there but Brussels would not seem to react against it.

Davignon asserted now that a spontaneous French invasion of Belgium is absolutely out of the question. France's most urgent desire would be that we enter Belgium, for this would waken the French population from its lethargy. But France by herself would never take the first step towards Belgium. All of France's policy consisted in the hope of support from America. But America's sympathy would be gone once and for all and turned to the opposite, if France wanted to violate Belgium's territory.

g. Davignon replied to my doubts about it that the news about the German intention to attack France through Belgium comes from every quarter. This kind of thing was reported from Italy. It seemed likely that Germany did not have anything against Belgium, except the very fact that its geographical position is most inviting for an invasion. Then Davignon returned a second time to the warnings which came from Italy.

h. Davignon finally mentioned that it would perhaps also be known to me that a German plane had made an emergency landing near Mechelen recently. There was presumably some material in this plane which could give rise to some alarm. I conceded quite incidentally that I had learned of the fact of such an emergency landing from the press.

I then steered the conversation back to a point where I could repeat that the Belgian Government was intimidated by unfounded information and was pushed into a very one-sided activity. I considered this very objectionable. I could not recognize any particular cause for the Belgian alarm. Davignon left me after this last remark.

Signed: WEIZSAECKER

Reich Foreign Minister

Under State Secretary, Political Division [the defendant Woermann]

Under State Secretary, Legal Division

2. Report of the German Ambassador in Brussels to the German Foreign Office, 17 January 1940, concerning his conference with the Belgian Foreign Minister and the situation caused by Belgium's possession of a document dealing with Germany's plans

Brussels, 17 January 1940 0640 hours
Arrived: 17 January 1940 1030 hours

[Stamp:]

Most Secret!

Nr. 32 of 16 January *Very urgent!*

Foreign Minister Spaak asked me to see him this evening and talked in a serious, but distinctly friendly manner, in order to attempt, as he himself expressed it, to solidify again the fundament of mutual trust between our countries which was shaken in the last days. State Secretary Baron von Weizsaecker had talked to Ambassador Viscount Davignon about the importance of the military measures taken by Belgium at the end of the week. He wanted to give me the same answer which Davignon would transmit. The military measures had resulted from two main reasons:

1. The military authorities had had information that the German units were assembled immediately at the border as a starting position during the last week and that formations were brought in from farther distant stations.

2. A most extraordinary and most weighty document had fallen into Belgian hands, according to the deposition of the military authorities, through the plane which made an emergency landing on 10 January. This document contains clearly the proof of offensive intentions. In question would not be a plan for operations, but an order to attack, completed down to the smallest details, in which only the time would have to be inserted.

The two above-named reasons had compelled the Belgian Government to take the measures it deemed necessary. This being the truth and all other information nothing but speculation.

Foreign Minister replied to my question, whether he did not think the Belgian Government had become a victim of the war of nerves, that the idea of such a German procedure had entered his mind also for a while, especially when he thought that a complete order to attack fell from heaven. But he asked himself, for what purpose? Such a purpose could only *have* been to make the Belgian Government *lose* its nerve so that it called by itself Frenchmen and Englishmen into the country for the common

defense against a German attack. However he could assure me solemnly and most seriously that the Belgian Government would never commit the idiocy to fetch the *Allies*. The Belgian policy consisted in independence towards everybody. To call on a belligerent party for assistance would be the illogical consequence of the policy pursued so far. Its further unavoidable consequence would be what one just wanted to avoid, viz, the war within one's own country.

Foreign Minister concluded by expressing the hope that his most sincere explanations may be instrumental in making the mutual relations between the two countries intimate again.

I may supplement the declarations of the Foreign Minister by *remarking* that a representative of the Court, who is very close to the King, explained *emphatically that the King*, who himself is of German descent and whose sympathies for Germany are well known, would never tolerate that the Belgian Government depart from the clearly outlined policy of neutrality. He would continue to stick to this attitude even in the most critical hours and would not permit anybody to influence him. He would be most determined to conduct the policy of neutrality, a policy induced by himself, to the end, even to the bitter *end*, if it must be. If, therefore, Belgium should be involved in the war, this could only happen by way of violence, not caused by anything it had done itself.

BUELOW

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3. Report of defendant von Weizsaecker to von Ribbentrop, the defendant Woermann and another, 17 January 1940, concerning a further visit of the Belgian Ambassador

St.S.Nr.53 Berlin, 17 January 1940

Secret

The Belgian Ambassador announced himself again without giving an object of his visit. I received him at noon today. Davignon came point-blank to the reason for his visit. The day before yesterday he had learned from me that people in Germany are amazed at the alarming frame of mind and the military measures in Belgium which were directed against Germany. I had told him that I would lack a reason for such behavior which I considered unjustified and suspicious. This he reported to Brussels. His government considered it a duty of loyalty to answer the German doubts on its right to act that way. The answer would be very simple. The day before yesterday already

the Ambassador had talked of certain documents which had appeared from a German plane which had landed near Mechelen. From these documents would result the definite impression of Germany's offensive intentions against Belgium.

I looked surprised and repeated my remark of the day before yesterday that I knew of this story only through the press, but Davignon himself would obviously have no proof either. The Ambassador said now it went without saying that he did not have these documents with him. But he repeated that the documents, which had come into his government's possession in such a strange way had given the impression of offensive intentions to his government and to the King, who after all are serious persons and would certainly not exaggerate anything. Davignon added that he did not know whether these documents gave a certain date for the offensive. The excitement in Belgium had subsided somewhat, however, in the meanwhile. But his government would in spite of this continue to take a serious view of the events. This was the reason why it had sent him to the Foreign Office.

But, Davignon continued then, in order to give the right shade or color to his visit, his government would on the other hand not want to dramatize, today's visit must not be understood to be a *démarche*. He would not actually reproach us and would not ask questions. Should I, however, be in the position to give him more information which could calm down the excited spirits, this would of course be especially most welcome to him, the Ambassador. This, because his own policy which from the outset coincided with the King's policy, would only be justified if everything remained quiet between Belgium and Germany.

I told Davignon once and for all it appeared to me that he was informed on these documents from the airplane by a short telegram only, while I myself did not know anything of them at all. Both of us would lack therefore sufficient foundation for a discussion of the case. But I would consider Belgium's suspicious one-sided measures confirmed in a way which I could not acknowledge.

Davignon passed now to more general matters and asserted that Belgian policy of independence was entirely unchanged in spite of the intensified military security measures. His government had not taken any foreign suggestions. Neither had his government peddled around the affair of the airplane; it would not turn to any of the belligerent countries or get in touch with them, as long as no accomplished fact would be created by an invasion from the one side or the other. Should such a case

occur, however, from the German or the French side, it would indeed appeal to the other side.
(Davignon meant an appeal as provided in the arrangements of October 1937*, but did not expressly mention these arrangements.)

Signed: WEIZSAECKER

Reich Foreign Minister
Under State Secretary, Political Division [the defendant Woermann]
Dirigent Legal Division

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4. Memorandum from defendant von Weizsaecker to von Ribbentrop, 22 January 1940, concerning a conversation with the Italian Ambassador to Berlin on the German orders found in the German plane which made a forced landing in Belgium

St.S.Nr.83

Berlin, 22 January 1940

Secret!

The Italian Ambassador showed me an article in the "Temps" today, dealing with the emergency landing of a German plane near Mechelen. It was supposed to prove that the military orders which were taken from this airplane were the cause for the recent alarm in Belgium. Attolico showed me this article and remarked it seemed that this was an important event of which I had never spoken on the occasion of his visits last week.

As I did not want to enter into the subject, I told Attolico that this story had been making the rounds through the foreign press for quite a while already. However, I would like to ask *him* whether he could not tell me *on his part* why it was that the Belgians were so alarmed a week ago.

The subject of our conversation changed afterwards, and I could therefore not recognize whether and how far Attolico is informed on the Italian part in this whole question.

Herewith to the Reich Foreign Minister

Signed: WEIZSAECKER

* On 13 October 1937 the German Government, in a note to the Belgian Government, guaranteed the inviolability and integrity of Belgium, as long as the latter abstained from military action against Germany.

PARTIAL TRANSLATION OF DOCUMENT TC–57
PROSECUTION EXHIBIT 249

EXTRACTS FROM THE NOTE OF THE GERMAN GOVERNMENT HANDED TO REPRESENTATIVES OF THE DUTCH AND BELGIAN GOVERNMENTS AT THE TIME GERMANY INVADED THE LOW COUNTRIES, 9 MAY 1940*

* * * * * * *

The Reich government has for a long time had no doubts as to what was the chief aim of British and French war policy. It consists in the spreading of the war to other countries, and of the misuse of their peoples as auxiliary and mercenary troops for England and France.

The last attempt of this sort was the plan to occupy Scandinavia with the help of Norway, in order to set up a new front against Germany in this region. It was only Germany's last-minute action which upset this project. Germany has furnished documentary evidence of this before the eyes of the world.

* * * * * * *

Germany has recognized and respected the inviolability of Belgium and Holland, it being of course understood that those two countries in the event of a war of Germany against England and France would maintain the strictest neutrality.

Belgium and the Netherlands have not fulfilled this condition.

They have attempted hitherto to maintain an outward appearance of neutrality, but in practice both countries have shown a one-sided partiality for Germany's opponents and have furthered their designs.

On the basis of the evidence before them and particularly of the attached reports from the Ministry of the Interior of 29 March 1940 and the German High Command of 4 May 1940, the German Government establishes the following:

* * * * * * *

2. The Netherlands, in association with Belgian authorities, have, most flagrantly infringing their most primitive neutrality obligations, lent themselves to supporting the attempts of the British Secret Intelligence Service to bring about a revolution in Germany. The organization, founded on Belgian and Netherlands soil by the Secret Intelligence Service, and enjoying the most widespread support by Netherlands and Belgian quarters

* The full German text of this note appears in Trial of the Major War Criminals, *op cit.*, volume XXXVI, pages 682–687, as a part of Document 224–F, Exhibit RF–324 (having been introduced by a representative of the French prosecution staff in the IMT trial). The note was also introduced by a representative of the British prosecution staff in the IMT trial as Document 57–TC, Exhibit GB–112.

even in the highest circles of the Civil Service and the General Staff, had no other aim than the removal of the Fuehrer and the German Government, by all and every means, and the setting up of a government in Germany willing to bring about the dissolution of the unity of the Reich and to assent to the formation of a powerless Federal German State.

* * * * * * *

In this situation, the Reich government can however, no longer doubt that Belgium and the Netherlands are resolved, not only to permit the impending Anglo-French attack, but to favor it in every way and that the agreement of the General Staffs of these two countries with the Anglo-French General Staffs are designed exclusively to serve this object. The argument put forward on the part of Belgium and the Netherlands that this is not their purpose, but that the very fact of their helplessness has forced them to adopt this attitude towards England and France, cannot be recognized as sound. Above all, it does not alter the facts of the situation for Germany.

In this struggle for existence forced upon the German people by England and France, the Reich government is not disposed to await submissively the attack by England and France and to allow them to carry the war over Belgium and the Netherlands into German territory. It has therefore now issued the command to German troops to ensure the neutrality of these countries by all the military means at the disposal of the Reich.

The Reich government adds to this announcement the following:

The German troops do not come as enemies of the Belgian and Netherlands peoples; for the Reich government has neither desired nor brought about this development. The responsibility for it falls upon England and France, who have prepared in every detail the attack against Germany from Belgian and Netherlands territory, and on the Belgian and Netherlands government departments which have allowed and favored it.

The Reich government further declares that Germany has no intention of touching by these measures, either now or in the future, the sovereignty of the Kingdoms of Belgium and the Netherlands, nor the European or extra-European possessions of these countries.

The Royal Belgian and the Royal Netherlands Governments, however, have it still in their hands in this last hour to ensure the well-being of their peoples, by seeing to it that no resistance is opposed to the German troops. The Reich government hereby calls upon these two governments to issue without delay the necessary commands to this effect. Should the German troops

meet with resistance in Belgium or in the Netherlands, they will use all means to overcome it. The responsibility for the consequences arising therefrom and for the bloodshed then unavoidable, will have to be borne exclusively by the Royal Belgian and the Royal Netherlands Governments.
Berlin, 9 May 1940

WEIZSAECKER DOCUMENT 263
WEIZSAECKER DEFENSE EXHIBIT 127

EXTRACTS FROM SUMNER WELLES' BOOK "THE TIME FOR DECISION," CONCERNING WELLES' VISITS IN 1940 WITH VON RIBBENTROP AND DEFENDANT VON WEIZSAECKER*

3. My Mission to Europe: 1940

* * * * * * *

My reception by Ribbentrop was in some ways the most astonishing experience of my entire mission.

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I set forth the nature of my mission, emphasizing that my government was solely interested in the establishment of permanent peace in Europe and had no interest in any temporary truce. I concluded by making it very clear that I had no proposals to offer and no commitments whatever to put forward on the part of the United States.

Ribbentrop then commenced to speak and never stopped for well over 2 hours, except to request the interpreter from time to time to translate the preceding portion of his discourse. The Minister sat with his arms extended on the sides of his chair and his eyes continuously closed. The pomposity and absurdity of his manner could not be exaggerated. One could only assume that he envisioned himself as the Delphic oracle. It would be unduly tedious to relate in any detail the harangue which then ensued. The early part of the discourse had to do with German-American relations, and the entire burden for their deterioration was put on the United States. The remainder of Ribbentrop's outpourings was such an amazing conglomeration of misinformation and deliberate lies that I could not possibly have remained silent if I had not been afraid of jeopardizing the arrangements for the interview which I was scheduled to have with Hitler on the following morning. Among other things, Ribbentrop asserted

* The extracts reproduced here are the extracts which the defense included in the document. The extracts were taken from pages 111 to 123 of the book as published by "Editions for the Armed Services, Inc."

that German foreign policy conflicted in no way with the interests of this country and that the German Government never had and never would interfere directly or indirectly in the domestic affairs of the United States, nor in those of any other American republic.

* * * * * * *

In the notes which I made immediately afterwards, I used these words: "Ribbentrop has a completely closed mind. It struck me as also a very stupid mind. The man is saturated with hate for England to the exclusion of any other dominating mental influence. He is clearly without background in international affairs, and he was guilty of a hundred lies in his presentation of German policy during recent years."

Late that same afternoon I went to see State Secretary von Weizsaecker in his office at the Foreign Office. In the German official hierarchy the position of state secretary has corresponded since the days of Bismarck to that of under secretary of state in our own country.

Herr von Weizsaecker was a typical example of a German official of the old school. Although his early service had been in the German Navy, he had been transferred to the diplomatic service at a time when the German Government had decided to increase its Foreign Service by using suitable officers of the German Army and navy. In the intervening years von Weizsaecker had become wholly imbued with the traditions of the Wilhelmstrasse. In his schooling, in his mentality, and in his general approach he was reminiscent of the Bernstorffs and of the Buelows.

He spoke to me of his own home life. His greatest pleasure, he told me, had been when he and his wife and his three boys could have an evening of chamber music together in their house. The family had now been scattered. His youngest son of twenty had been killed in the Polish war, and his other two sons were serving on the Western Front.

I spoke with Herr von Weizsaecker of my earlier conversation with Ribbentrop and, after hesitating a moment, Weizsaecker said: "I am going to be quite frank with you. I have been strictly instructed not to discuss with you in any way any subject which relates directly or indirectly to the possibility of peace."

He then drew his chair toward the center of the room and motioned to me to do likewise. It was evident that the omnipresent German secret police dictaphones were installed in the walls rather than in the central lighting fixtures.

We had for a while a desultory conversation. I then reverted again to my conversation with Ribbentrop. I said that, if the feeling of the German Government as a whole was as decisive as that of Herr von Ribbentrop that a war of devastation and of

conquest was the only course for Germany to follow, I would be needlessly taking up the time of the German authorities by prolonging my stay.

Herr von Weizsaecker thought a good 3 minutes before replying. He then leaned toward me and said: "It is of the utmost importance that you say that personally to the Fuehrer when you see him tomorrow."

I waited a moment myself and then asked him: "Let me have your personal advice, for I am now asking an entirely personal question. Do you believe that any suggestions for peace conversations proffered by Mussolini would have any favorable reception here?"

This time Herr von Weizsaecker again waited before answering. His reply when it came was: "What I have already said about the Fuehrer answers a part of your question. But," and here he motioned to the Foreign Office in which we were, "here the relations between Germany and Italy have *narrowed* greatly."

The only interpretation which could be drawn from his statement was that, in von Weizsaecker's opinion, if the Duce were to approach Hitler directly and secretly, it might have some effect. If Ribbentrop knew of the approach he would do his utmost to block it.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT SCHELLENBERG*

DIRECT EXAMINATION

DR. MINZEL (Associate Counsel for defendant Schellenberg): Witness, may I ask you to give the Tribunal your personal data?

A. My name is Walter Schellenberg. I was born on 16 January 1910, in Saarbruecken, as the son of a piano manufacturer, Guido Schellenberg, and his wife, Lydia, nee Riedel. I am 38 years of age, married, and I have four children.

Q. Witness, please give us a short perspective of conditions in your parents' house, and your professional training.

A. I am the seventh child; I have three sisters and three brothers. From 1920 to 1929 I went to the secondary school [Reform-Real-Gymnasium] in Saarbruecken, a school which specialized in foreign languages and natural science, which were preparations for university studies. When I was a child in Saarbruecken, I was enlightened about the terrors of war. I remem-

* Complete testimony is recorded in mimeographed transcript (11, 12, 13 May 1948), pages 5034–5131; 5144–5223; 5234–5356. Further extracts from the testimony of defendant Schellenberg are reproduced in volume XIII, section IX D 3.

ber the severe famine in the winter of 1917 and the heavy bombing attacks in 1917 and 1918 on Saarbruecken. At the end of that war my father, on the occasion of the French occupation of the Saar, came, as a hostage, into French imprisonment. When following the French military occupation the Saar was incorporated with regard to economic and tariff matters, this had serious consequences on the economic structure of the region and thus, also, on the living conditions of my family.

A temporary improvement was followed by the situation deteriorating, as the Saar industries had lost their economic hinterland. This economic depression also hit my father's business. In 1923 the business was moved to Luxembourg and eventually my parents moved to Luxembourg themselves.

Q. Witness, did these impressions of your childhood create an early interest in political questions or did they have any influence on political attitudes at a later date?

A. No, my mother was in charge of my education first and she took particular care to develop my personality as my father was very occupied with his business. His more open extrovert attitude had an influence on me at a very much later date. At school I was under the influence of a history professor who interested himself in me and explained to me the principles of the Renaissance and the consequent political and cultural movements.

Q. Did that influence you to take up a political occupation after you left school?

A. That also remained very general. It became conscious to me that it did not necessarily mean that I from then on interested myself in the actual and topical political problems. I was and have remained until this very day a man whose interests—as far as the cooperation [Zusammenleben] between men and nations is concerned—restrict themselves to the economic and inter-state forms of education of this cooperation. Especially from the point of view of the particular situation of my family in the Saar territory and in Luxembourg I was directed automatically less to events of internal politics than to those of foreign policy.

Q. What basis arose thus for your future attitude on political questions?

A. The basis for my personal development or the development of my own person in this connection I can put into a very short sentence, a sentence which I was able to formulate only very much later. That was at the beginning of the war—to a number of friends of mine. It is to this effect. I feel myself a German as far as my origin and my cultural training is concerned. According to my childhood and those influences at a later date I feel myself a Western European, and with the aid of my reason I feel myself a citizen of the world.

* * * * * * *

Q. When did you first come into contact with the SD?

* * * * * * *

A. In 1934 I was exempted from the so-called SS duty session [SS-Dienst] which took place about three times a week, and a higher SS leader whom I had met, who later became my first chief in the SD Main Office, did this favor for me. He first interested me in literary and legal questions and questions of administration and interested me in writing reports about these matters. It was only after a short time that I became conscious of thus coming into contact with the so-called SD, that is the Intelligence Service—the domestic intelligence service.

Q. Now, what was the further course of your professional training?

A. The preparation for the legal service I had at the District and County Court in Bonn and other towns of the Rhineland; and, as far as activity in the administration career is prescribed in the Police headquarters in Frankfurt and Berlin, at the end of 1936 I passed my final legal examination *summa cum laude,* from which it can be seen that I dedicated myself to my studies. The question which cropped up then was what final professional career I should have to take. I had a paternal friend who had a very well-known and creditable law practice at Duesseldorf, whom I was supposed to join. I discussed that at length with him. The measures at the time, of the National Socialist legal system were not fit to give professional chances to a lawyer. Thus, after due consideration, I made up my mind that I should, first of all, take up a Civil Service career. Simultaneously, as I had already come into contact with the domestic intelligence service—with the SD—I was going to try to get some preliminary training in this sphere so that I could maintain material support as a civil servant. I was taken into the Reich Ministry of the Interior as a Regierungsassessor [Assessor in the administrative service] and detailed into the intelligence service [Nachrichtendienst].

Q. Did you, in connection with the intention to take up an official career in the SD Main Office, entertain the thought that you would thus enter the Party activity?

A. No, no! In the then SD Main Office, as it was called, and also the Reich Security Main Office [RSHA] of later days, there were many departmental branches which are maintained in any country by some official department. In this connection I have only to remind you of the department of civilian espionage, or the intelligence service in foreign countries, which is to gather information about all domestic spheres in all foreign countries. These are tasks which are dealt with in any other State, and,

which, in Germany, in the course of political development, were dealt with by the SD Main Office.

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Q. Witness, had the espionage counterintelligence anything to do with the Party authority, as indeed the RSHA was?

A. As I have already touched upon, it is basically false to call the organization of the RSHA a Party body. The fact that the person of the so-called Reich Leader of the SS, Himmler was the Chief of this organizational institution, this, in itself, must not lead us to think that, because he had other State functions; he was the chief of the German police, for instance. The department which I took over at the end of 1939, as a young Government Councillor, Regierungsrat, was officially that of espionage counterintelligence. If I can develop the state of affairs from the files I can say that it was an institution which had already existed as early as Bismarck's time. I had interested myself in this state of affairs because I was interested in it. Then, the department was called the CST, Central Office of the Police Headquarters in Berlin. This office dealt with the same assignments in espionage counterintelligence as was continually dealt with in the domestic spheres until the year 1939, when I was put in charge of this department. I had only one large assignment of an organizational nature at the time in this particular sphere. That was the so-called unification of police bodies of the various [German] states.

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Q. Witness, you were then made Chief of Group IV–E, that is Espionage and Counterintelligence, in the RSHA.

A. I have to mention here that before I finally took over Group IV–E, I was temporarily, for a short time, detailed to Dortmund to the State Police Regional Office [Staatspolizeileitstelle] at that place. Dortmund was, as far as the sector of counterespionage is concerned, a focal point, in that there the foreign intelligence units made themselves more and more noticeable because of the armament industries. There all foreign agents were working. Special difficulties were provided by the Polish intelligence service in all this area, as it was possible for the Polish intelligence service to resort to the Polish elements [Polnische Volktum] living in the Ruhr territory.* I seem to remember that this period of my service was of special interest for me because then we found that the latest anti-tank gun, with all its drawings and charts and graphs, had come into the hands of the Polish intelligence.

Q. Witness, in what sphere did your intelligence activity operate in Dortmund?

* Reference is made to the laborers of Polish nationality or descent working in the Ruhr mines and iron and steel industry.

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A. My intelligence activity consisted of the protection of the armament industries; in detail to inquire how the plant police [Werkschutz] was built up, and the structure thereof, whether security devices existed in the plant, how the regulations on classified matters were kept and controlled, general questions of security and border control, the surveillance of hotels and railway trains, issuing of decrees and regulations. I could go on *ad nauseam*. For the entire Ruhr territory my assignment was—during the war which had just started—to study all questions in this particular sphere and make a proposal for the carrying out and the improvement of all these measures.

Q. In this connection, Witness, I want to put another question to you. Did this activity have anything to do at all with any police activity concerning domestic political activity?

A. Yes, it was a police activity of a domestic political nature, insofar as I carried out this police activity within Germany. But this had nothing to do with the remaining spheres [of police activity of domestic political nature].

Q. When did you take over this Group IV–E, Espionage and Counterintelligence, after you had served in Dortmund?

(Recess)

Q. Witness, I am going to repeat my last question.

When did you finally take over the counterintelligence group in the RSHA?

A. I took over the management of counterintelligence around 15 November, perhaps a little later.

Q. Therefore, that was after 9 November 1939, that is after the Venlo incident?

A. Yes, that is right.

Q. And now let us refer to that incident. In starting my examination concerning this incident, I must refer to what the prosecution has said in connection with the Venlo incident. In the indictment, English page 17, it says: "The defendant Schellenberg participated in the fabrication of pretexts for aggression and was connected with and participated in SS and SD plans and preparations for aggressive war." On English page 25 of the indictment, it says: "The defendant Schellenberg participated in the staging of the 'Venlo Incident,' which involved the kidnapping of enemy and neutral nationals to fabricate a pretext for the invasion of the Low Countries." Finally, the prosecution in its opening statement, describes the cause and circumstances leading up to the Venlo incident briefly as follows:

"On 9 November 1939, two British officers, Stevens and Best, together with a Dutch officer, were lured to Venlo, a Dutch vil-

lage near the Dutch-German frontier, to a rendezvous with Schellenberg and his subordinates. They were seized and hurried across the border into Gestapo headquarters for questioning. The statements allegedly made by the victims of this kidnapping during the course of an intensive questioning were later used to justify the invasion of Holland as evidence of that country's violation of its neutrality. * * * Best and Stevens languished in German concentration camps until their eventual liberation by the Allies in the spring of 1945."

Witness, how was it that you participated in the Venlo incident?

A. In early October 1939 I had to give, in Berlin, to the then Chief of the Security Police and SD, Heydrich, a comprehensive report concerning the situation of counterintelligence work in the Ruhr area. On the occasion of that report a decision was also to be made as to when the final activity in the handling of the counterintelligence department in Berlin was to be taken over by me. When I then went to Berlin for the purpose of reporting, the Chief of the Security Police told me that in Holland there was a very interesting intelligence maneuver [Nachrichtenspiel] with the British Intelligence Service which was taking place at that time. A decision now had to be made as to whether this connection with the British Intelligence Service was to be maintained, and, whether by supplying them with erroneous data, further invasions were to be undertaken into enemy intelligence methods and services; or whether the incident [Vorgang] was to be terminated, and, on the basis of the intelligence contact that had been established in Germany, to ascertain and to apprehend them. Particularly, pursuant to this intelligence play that had taken place, it had been verified that the British Intelligence Service had constructed a comprehensive intelligence organization against the German Luftwaffe, and for each airport located in the West a special control and supervision was provided. They had special radio equipment for the purpose; the times of departure and the number of planes were constantly being reported. This was the so-called Observer Corps.

The Chief of the Security Police, in making his statements to me, was inclined to take the opinion that this intelligence maneuver was to find a termination, because it was more in the interests of the State to discontinue it than to continue or maintain it. That was essentially the motive for his calling me in as an expert in the counterintelligence field, since I had that capacity at that time. However, he left the question open, and I strengthened him in the opinion that he held because, as far as the details of the situation were concerned, I had no proper idea of them as yet. He ordered me to contact the Chief of the Foreign Intelligence Service in order to verify and discuss the details of the case.

As far as an actual report on counterintelligence in the Ruhr Area was concerned, he wouldn't even listen to it any more, and he said: "That is all right, I can discuss that with experts in the field. First of all, you just take care of this case; that is a very good training case for you."

Q. Counterintelligence, that is Group IV–E of the RSHA, belonged to Amt IV. Why, then, did Heydrich refer you to the Chief of Amt VI [Heinz Jost]?*

A. Technically speaking, the activity of counterintelligence had nothing to do with the other sectors of Amt IV; there were certain contacts with the so-called Military Counterintelligence and the Foreign Intelligence Service and primarily with the sphere of duties of the Chief of Amt VI, whose functions I held later on.

Q. What was the result of your discussion with the Chief of AMT VI?

A. The discussion I had at that time resulted—and now I am just giving you the appropriate sense of it—in the following: For many years past there had been active in Holland a German intelligence agent, whose name I would rather refrain from quoting here. This man had pretended to be an immigrant and in that capacity he maintained close contact with the Secret Service. The Secret Service, on its part, obviously did not recognize the double-crossing of this man and they considered him a person of confidence. They considered him to be a man of confidence particularly, probably, for the reason that the agent professed to be active in a certain sphere of work which was of great interest to the Britishers, that is, maintaining close contact with an opposition; he professed to be in close contact with opposition circles within the framework of highest Wehrmacht circles in Germany. And now, when in September 1939, war broke out against Britain this fact, of course, gained a special significance and interest for the British Intelligence Service, because it was clear that this man was endeavoring, by means of a political revolt or revolution, to gain officers of the opposition parties in Germany and to bring about a revolt in Germany itself. At the time when I was interpolated into it, this intercourse of intelligence had already developed to such a degree that the British intelligence officers were expecting to have intimate conferences with high officials and members of armed forces circles, at least that is what that secret agent told them; he said that such secret and intimate conferences would take place imminently. The result of my conferences with the then Chief of Amt VI of the Foreign Intelligence Service was

* Heinz Jost later became Commanding Officer of Einsatzgruppe A. He was a defendant in the "Einsatzgruppen Case," (United States *vs.* Otto Ohlendorf, et al.), volume IV this series.

that after assessing all the various factors involved we found that it was more important, in the interest of secret service, that this political game or intercourse was absolutely to be continued in the manner it had developed. There were disadvantages which arose, due to the fact that very probably in West Germany the British Intelligence Service would be successful through the channels and contacts it maintained. We were willing to accept these disadvantages in continuing. It must be said that this decision was not one that was easy to make, because we never had a full survey of the situation and we could not judge to what extent we were really endangering the interests of the State.

Q. Was there any talk . . . .

A. Please permit me to continue what I have to say. I then made the proposal that I myself would go to Holland, in the capacity of a captain or a member of the High Command of the Armed Forces, under the cover name of Schemmel. It was my intention to have a conference there in Holland together with the Britishers and I would arrange for a new meeting with these armed forces opposition circles. It was this plan of mine which was actually approved of by my superior.

Q. Was there talk to the effect that this intelligence maneuver was to furnish data which were to represent a pretext justifying or possibly being capable of justifying an attack on Holland?

A. My discussions and conferences in that matter have been described by me as fully as I can. I am therefore able to answer this quite positively in the negative. Neither in the discussion with the Chief of the Security Police nor with the Chief of the Foreign Intelligence, Amt VI, was there any talk to that effect.

* * * * * * *

Q. Witness, now please describe the further course of development that the Venlo incident took.

A. I think it was early October 1939 the first time that I went to Holland, under the name of Captain Schemmel. Arrangements were made at that time for conferences to take place in The Hague on a larger scale. The British intelligence officers who gave me their confidence were promised by me that very soon a general of the German Wehrmacht would be brought along by me as an exponent of the office of the oppositional circles among the German Wehrmacht officers. Then I was able to secure the services of one of my best friends in Berlin, who was then director of the department of psychiatry of the Charité [hospital] in Berlin and he was a Colonel in the Medical Corps of the Wehrmacht. He was introduced as the most presentable exponent of the oppositional sections among German Wehrmacht officers. He was considerably older than I and we were on terms of good frienship

and it was therefore possible for us to play together in that session that we held with the British intelligence officers and we were successful in this common play that we performed there. The results of the individual conferences were then transmitted currently to the central office of the British Intelligence Service via radio. I would like to draw the conclusion from what I have said that the central office was greatly interested in this entire matter and was also responsible for directing the trend that the individual conferences took.

Q. In a report of the Dutch Government concerning the negotiations of the Netherlands Diet, introduced by the prosecution in document book 71, English page 65, Exhibit 1142,* it says that the Chief of the Intelligence Service of the Dutch General Staff had received the information that high officers of the German Wehrmacht had taken up contact with British officials and were proposing to negotiate for peace. Was there talk of negotiations for peace? Was this the subject matter of your conferences?

A. Yes—negotiations for peace of a very special nature. The British intelligence officers were discussing with me in every detail a revolt which allegedly was to be undertaken by the opposition circles in the armed forces in Germany and the head of the government was to be deposed by force. At that time the results of these negotiations were allegedly to be reported by me to the German opposition circles and if they approved of these plans, then the provisions were that, furnished with final arrangements, I would once more confer with the British intelligence officials. Furthermore, it was agreed upon that possibly—and this was a possibility that I did have to anticipate—I would have to report to the then Lord Halifax and go there by airplane to see him. Due to the necessity of maintaining current contact, we exchanged a modern radio equipment and we arranged for special secret codes, and so on.

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Q. Witness, when, for the first time, did the thought arise that an attempt could be made to apprehend the British intelligence officials?

A. Of course this intelligence maneuver, which was of great political significance, had been reported on by me to Berlin on several occasions and I reported on the course that it took and on the various stages of the negotiations, tendering details to Berlin. In Berlin it was apparently the inclination to adhere to my intention to continue this intelligence maneuver under all circumstances but it was proposed that such contact would be dimin-

* Document NG–4510, reproduced earlier in this section.

ished when I would no longer be able to furnish intelligence data on the same scale as before. It was on 9 November 1939, when suddenly, quite against my expectations—up to that time I had nothing whatever to do with Himmler officially—I was called up by the then Reichsfuehrer SS in Duesseldorf. He gave me the order that these two British intelligence officials were to be apprehended, if possible near Venlo, on German soil, or otherwise on Dutch soil, by a special military squad which had already received corresponding orders. Himmler told me over the telephone then, that on the night of 8 to 9 November an attack had been attempted on Hitler in Munich. Hitler's life had been spared but it was his opinion that the British Intelligence Service was behind this attack, probably, as he expressed himself then on the telephone, through the two colleagues of mine, Best and Stevens, who were the two British intelligence officials with whom I was maintaining negotiations at the time. I was told that they had only deceived me and it was a definite fact that they were behind this attack. On the one hand they had carried on nice negotiations with me but on the other hand they had really acted.

This was Himmler's attitude and point of view and it wasn't possible for me at that time to raise any opposition to it. It perplexed me at first because I hadn't received any information about that attack on Hitler. Therefore, everything was against expectations and against the arranged program. I remember, however, for a fact that Himmler's order contained the sentence that under all circumstances the sense of taking these British officials into custody was to transfer these Britishers alive into German hands and thus to furnish evidence for their participation in the attack in Munich.

* * * * * * *

Q. Witness, did you then give out any directives concerning the arrested people?

A. No, quite consciously I kept out of the whole affair in order to give no overlapping orders or directives as I was not responsible for the technical carrying out of the case. As far as I remember, I left Duesseldorf the same evening for Berlin in order to report there finally about the whole affair. Furthermore, I think it was 10 November, in the presence of the unit leaders* who were consulted, I think it was at Himmler's that I had to report. Yes, it was Himmler, I remember now.

Q. Is it correct to say that Hitler decorated you with the Iron Cross for your cooperation in the Venlo affair?

A. Yes, for the whole affair I got the Iron Cross as a decoration from Hitler personally. I remember that we had to line up and that my place was the third in the row from which it became

* Reference is to the leaders of the SS unit which participated in the Venlo incident.

evident that the two unit leaders concerned were given more importance that me who had negotiated.

Q. Did you have anything to do with the further course of the matter?

A. The further interrogations of Captain Best and Major Stevens were carried out by trained counterintelligence specialists. Accordingly, as is usual in such cases they were interrogated as to the material on hand, concerning the details of the work of the secret service in Holland, Belgium and France, and obviously also in Germany. The most important matter in the interrogation was the cooperation between the English and the Dutch Secret Service as far as that could be found out at all. What became quite evident from that was that the British Secret Service used Holland as a sort of front against Germany, and as I already mentioned this morning, it was not only the Ruhr area and the military dislocations, but also airports and their movements, etc. It was an extensive net of agents which was to be built up and which had only been started to be built up, which was under the leadership of Best and Stevens. The Dutch Secret Service must have been informed about these matters which became clear from the evidence material we had about the case.

Q. Witness, do you want to say therewith that the document which was submitted by the prosecution in document book 71, English page 88, submitted as Exhibit 1146,[1] is correrct? It is the report of the 29 March 1940, and do you want to say that the date as to the information of the British Intelligence Service in Holland and its connection with the Dutch Secret Service is correct?

A. The statements made in that report are in accordance with what was established then on the basis of the interrogations and investigations made at the time. The fact that the Dutch Government was informed and perfectly clear about the contact of their own intelligence service with the English Secret Service, was at least not entirely aboveboard, became quite evident very shortly after the Venlo incident, when the competent chief of the Military Intelligence Service of Holland, van Oorschot, was dismissed from his post. At the time the Dutch side tried to keep secret and to belittle this German finding. This was expressed in the whole attitude of the Dutch, even during the negotiations of the Foreign Office at the time.

Q. Witness, you heard the statements made by Behrends[2] and you know that he declared that in December 1939, he had to report to you in Berlin, and that he was sent by you to Duesseldorf. Please comment on this statement.

[1] Document NG–4672, reproduced in part earlier in this section.

[2] Dr. Walter Behrends appeared as a prosecution witness. For complete testimony see mimeographed transcript, 18 Feb. 1948, pages 2071–2078; 2120–2122.

A. Apart from the compiling of the reports in the Venlo incident and the supervision of all the important matters in the espionage counterintelligence department, I had really nothing to do with further details of the Venlo incident. It is only in December 1939, I do not remember exactly, I received a telephone call from the then Chief of the Security Police and the SD ordering me to ask Dr. Behrends—who until then I had not known—to see me and to assign him to report in Duesseldorf to the Oberregierungsrat Dr. Hasselbacher, Chief of the Security Police and SD in the Rhineland Area. He should discuss with him in what manner the body of the Dutch First Lieutenant Klop could be buried in a proper and dignified way. Dr. Behrends, who was in a Waffen SS unit, with which I was not acquainted at the time; he had to go via the corresponding Wehrmacht authority, arrived at my office one morning. My maximum time of conversation with him was about 6 or 7 minutes. I passed on the order which had been given to me, and after that I saw Behrends just once during the war, and after that only once again when he was examined in court here.

Q. Now, Witness, will you please comment on Document NG–4691, submitted by the prosecution in document book 71, on English page 82, Exhibit No. 1144,[1] from the so-called Oberheitmann material?

A. Apparently these are directives in the matter of the attitude of the German press. I cannot give you details concerning this. I don't know the directives as passed on at the time, and I don't know well how these notes made in this document here were compiled at all. I had nothing to do with the treatment in the press of this particular case. I only know that a short while after the incident notes appeared, newspaper articles in the German press, describing the activity of these British intelligence officers and bringing it into context with the attempt on Hitler's life, the attempt which I have already mentioned of 8 November 1939 in Munich. It seemed to become evident that these Englishmen would be tried concerning this because of their connection with the attempt on Hitler's life.

* * * * * * *

Q. Witness, the former Ministerial Director and Chief of the Legal Department in the Foreign Office, Dr. Gaus, made out an affidavit concerning the incident and the procedures in the Foreign Office in connection with the assault on Holland and Belgium in May 1940. This statement made by Dr. Gaus is contained in the prosecution document book 6, English page 66, of the Prosecution Exhibit 254,[2] and here the prosecution points out in connection

[1] Reproduced earlier in this section.

[2] Document NG–3945, reproduced earlier in this section.

with the memorandum submitted by the prosecution, the memorandum of the German Government to Belgium and the Netherlands, on 9 May 1940, which is contained in prosecution document book 71, English page 108.* And they seemed to draw the conclusion that you, through your cooperation and your participation in the Venlo incident, had participated also in the carrying out of aggressive war. Now, will you comment on this statement of Dr. Gaus?

A. I have already stated that the directives given to me on the occasion of the Venlo incident never mentioned that the statements about the activities of the Secret Service in Holland were to be used in the preparation of an aggressive war against this country or that such an incident should be used for the creation of an excuse. Only in order to test in a practical case my ability for the job to be assigned to me as Chief of the Espionage Counterintelligence, I was involved in the Venlo affair. This was the motive pursuant to which the matter started for me and there are sufficient witnesses for me who have listened to those first discussions. I then negotiated accordingly in Holland and after the affair I compiled the material obtained in a survey of the entire activity of the work and methods of the British Secret Service in Holland as established by me. I admit that I made use of material or any material that might be in the counterintelligence department, material that had collected itself in the archives files or the routine files or wherever it was. But in my position which I held then as a very young Government Councillor—I was 29 at the time—but nobody informed me about the German war plans in the West; nobody gave me the dubious honor of participating in a so-called conspiracy of German leadership.

Q. And the report which has been mentioned, you submitted at the end of 1939, or the beginning of 1940, to the Foreign Office?

A. Yes, that was at the end of 1939. I don't remember whether it was during December or the first days of January I passed the material on to Ministerial Director Gaus which informed him about the results of the investigations in the Venlo incident. The evaluation of the material which was passed on to Ministerial Director Gaus I had no influence on. Gaus discussed these matters quite generally with me, but a general discussion was all it amounted to. After about one or two discussions with Gaus, I left the material with Gaus. The whole incident was closed for me. Furthermore, however, after having studied the documents and the speech by Hitler, Document 789–PS, which is in document book—

Q. Book 71, English page 83.

* Document TC–57, prosecution Exhibit 249, reproduced in part earlier in this section.

A. Book 71, page 83. It is Exhibit 1145.[1] Is that right?

Q. Yes.

A. If I now take a retrospective view on these incidents, I should like to say that the German intention of attacking the West by violating the neutrality of Belgium and the Netherlands, was an accepted fact at the time, and that anything which might have established the cooperation of the British and Dutch intelligence services could be of no significance for the carrying out of these actions, because Hitler—as becomes evident from the document—stated in his speech that the neutrality of Belgium and Holland was without any significance for him whatsoever. He verbally said that he had made up his mind, and it is generally known today, that the assault on Belgium and Holland was originally planned for November 1939 and had been prepared to a larger extent. That was pointed out by General Jodl, too, during the IMT Trial. Hitler mentioned in the speech which I have mentioned the fact that in this Venlo incident a Dutch General Staff officer was participating, and that in fact had turned out to be true, and that he would use these motives and reasons for his acts in the West. I can only repeat that I, just as little as any captain of a division, which was in preparedness in the west, did not have a full knowledge of the real plans of Hitler and the plans which also his close circle had, nor is it true that I performed my counterintelligence activities along the lines of such plans.

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CROSS-EXAMINATION

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MR. HARDY: General, didn't you participate in the ground work for this report, which is here in evidence as Exhibit 1146,[2] found in book 71—the report signed by Frick and Himmler. You know it very well.

DEFENDANT SCHELLENBERG: Yes, it was Herr Gaus and I who participated in that.

Q. And you knew the purpose of the report, did you not?

A. No, I did not know the original purpose. I always thought that this concerned a résumé, a compilation of data, so that the discussion with the Dutch Government on the subject of the neutrality policy could be covered by it. That was the original purpose and only later, when, of course, I noticed more and more

[1] This document is not reproduced herein. The document contains the transcript of Hitler's speech of 23 November 1939 to which all the Higher Commanders of the armed forces were invited. This was the last of "four secret meetings" to which the IMT in its judgment made "special reference because of the light they shed upon the question of the common plan and aggressive war." See Trial of the Major War Criminals, *op. cit.*, volume I, pages 188–192. The German text of this document appears in Trial of the Major War Criminals, volume XXVI, pages 327–336.

[2] Document NG–4672, reproduced in part earlier in this section.

data being requisitioned and more and more data being furnished by me on the basis of interrogations, then I got to have the idea what this actually involved, because we could read that between the lines.

Q. Well, you did know, in your discussions with Gaus, during the preparation of this report, that its purpose was to show that there existed a breach of neutrality on the part of the Dutch Government. Isn't that right?

A. I think that the basic discussions on the actual motive were made between the then Chief, Heydrich, and Ribbentrop. All that I received was an order to compile data and hand it over to Gaus.

Q. Well, were the statements contained in this report that you handed over to Gaus in accordance with the actual facts, or were there some fabrications contained in the report?

A. Herr Gaus expressed himself very vaguely on that question. As far as I am informed and acquainted with the facts, the data that I made available to the Foreign Office were the data which was actually to be found as a result of interrogations, and was contained in our files. Now what the Foreign Office may possibly have done with that report would not be known to me, that is, what Ribbentrop did with it.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT WOERMANN*

DIRECT EXAMINATION

DR. SCHILF (counsel for defendant Woermann): First of all, we must settle the questions about yourself. Please give us your full name.

A. Ernst Woermann.

Q. When were you born?

A. 30 March 1888.

Q. What was your father?

A. Professor of the history of art and director of the art gallery in Dresden.

Q. Please describe your education briefly.

A. After attending high school I studied at the Universities of Heidelberg, Munich, Freiburg and Leipzig. I studied law. I took my doctor's degree and the first legal state examination. During my time at the universities, in between, I did my military service for one year.

Q. You passed an examination, you said, and after the end of the First World War?

* Complete testimony is recorded in mimeographed transcript, (2, 6–9 July; 28 October 1948), pages 10843–10876; 11032–11140; 11189–11284; 11298–11395; 11451–11552; 26656–26661.

A. I passed the second legal examination after having some years as Referendar in Hamburg. I used an illness during the First World War to pass my assessor's examination. Between 1914 and 1918 I was at the front.

Q. After passing your second legal examination, the so-called examination for becoming a judge, what did you do next?

A. The First World War was finished. After being wounded for the second time I was in the hospital and when I had recovered I returned to Hamburg and worked there as Assessor and prepared for my entry into the Foreign Office.

Q. When did you enter the Foreign Office?

A. In February 1919.

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Q. Would you give the Tribunal the date when you joined the Legal Department [of the Foreign Office]?

A. I think it was in 1931.

Q. Thank you. How long were you working in the Foreign Office? We have dealt from 1929. How long did you remain?

A. I was in Berlin from 1929 to 1936. In the Legal Division, I then headed the section concerning international law, and the Versailles Treaty was also a special assignment; and, among other thing, Red Cross affairs. All through this time, from 1929, apart from reparations conferences, I attended many other international conferences including those of the League of Nations.

Q. When was your first meeting with Ribbentrop?

A. My first official meeting with Ribbentrop was in 1936. At that time we had again occupied the Rhineland and as a result the council of the League of Nations met in London. To the astonishment of the Foreign Minister, Baron von Neurath, Ribbentrop became head of the German Delegation for this League of Nations meeting and I was attached to Ribbentrop.

Q. Was that your very first meeting with Ribbentrop in 1936?

A. No, I met him for the first time at the trade pact negotiations I mentioned in 1925 in Paris. At that time he was an expert for the economic branch of which he was a member at that time but it was only a very superficial meeting.

Q. In the meantime—that is between 1925 and 1936—did you see Ribbentrop again?

A. I don't think I saw him again until 1934 or 1935. He was given disarmament tasks but even then I had no contact with him until 1936 when I said I was attached to him.

Q. We will come back to your relationship with Ribbentrop later. First of all, I would like you to describe to the Tribunal your further career.

A. In 1936 there was no political division as such in the Foreign Office. There were various groups for countries [Laendergruppen]. In 1936 they were collected in one political division and it became one of the two divisions they had at the time.

Q. Would you please go on describing your career in 1936?

A. Yes, then in October 1936 I was made Embassy Counsellor and transferred to London.

Q. How long were you there?

A. I remained there until April 1938.

Q. And apart from your function as Embassy Counsellor, did you have any other tasks at this time?

A. No, I had the normal functions of the embassy. Of course, definite negotiations took place.

Q. When Ribbentrop was away?

A. Ribbentrop was away at least half of the time and during that time I was Chargé d'Affaires.

Q. Between August 1936 and April 1938 Ribbentrop was your superior as Ambassador?

A. Yes.

Q. In February 1938, as we know, Ribbentrop became Reich Foreign Minister. How did this affect your work in London?

A. First of all, until April 1938 I remained in London as Chargé d'Affaires and was then recalled to the Foreign Office as head of the Political Division.

Q. And how long did you remain head of the Political Division?

A. Until April 1943.

Q. What happened then?

A. I became Ambassador to Nanking, China. First, when I heard of that I thought it was a transfer only on paper for appearances' sake.

Q. Why did you think that?

A. Because I didn't quite see how I could get to China from Germany. Germany did not have long range aircraft like other countries and such as it did have would have had to fly over the Russian front. In fact, we had long been negotiating with Tokyo about establishing air communications but we hadn't succeeded. When immediately after my appointment I came to Ribbentrop in Fuschl he told me quite soon there would be an opportunity to go to China by U-boat.

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Q. I now come to prosecution book 6. It concerns Belgium, the Netherlands and Luxembourg. Herr Woermann, how at that time did you see the development up to the time of the invasion of these three states?

A. After Britain and France had declared war on Germany at the beginning of September there was a lot of guesswork going on as to what form the real German-French war would take. On the one hand there was the West Wall and on the other the Maginot Line, and I was not informed what would actually take place nor was I at any later stage informed about German military plans, nor did I know whether Germany would attack first or whether France would attack and whether, in case of a German attack, the attack would be directed only against France or whether, as was frequently assumed, it would be made through Belgium and Holland. From January 1940, the rumors increased that Germany would attack France and that this attack would be launched through Belgian and Dutch territory. I think the event which gave me personally a pretty strong hint in this direction was the landing of a German aircraft near Mechelen in Belgium. I heard of that in January 1940. This matter is mentioned in Prosecution Exhibit 247* on page 26 of the English book. That describes it in detail. In Herr von Weizsaecker's examination it has also been discussed. At that time a complete German plan of development had fallen into the hands of the Belgians. This incident, that a complete plan of attack against Belgium had passed from the hands of German officers and fallen into Belgian hands, was so far beyond the bounds of what was imaginable that all sorts of assumptions were based on it; in particular, that the thing was perhaps a large-scale camouflage maneuver.

I myself did not believe this version, but I couldn't consider that it was quite impossible either. At that time I talked to the Belgian Ambassador, Count Davignon, with whom I was very friendly, quite openly about this subject. The Belgian Ambassador also had doubts whether such an incident really could be possible without its serving a definite purpose. That is the purpose of hiding something else, but at this time there were also other indications which in fact made it likely that an attack on France through Belgium and Holland was being discussed.

Q. In the case of the exhibit you mention, Herr Woermann, Exhibit 247, may I repeat the English page, page 26, and the German incidentally is page 34, that is a note by Herr von Weizsaecker of 15 January 1940. There the remark of the Belgian Ambassador, Count Davignon, is reproduced as follows, and I quote: "Everyone in Berlin was talking in the streets of a German march into Belgium and Holland." Was that in accordance with your view at that time?

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* Document NG–2893, reproduced earlier in this section.

A. Well, that was a funny thing in the situation at the time. In contrast to the Norway enterprise there nobody had even discussed it before, while with respect to an imminent attack on Belgium, as the Belgian Ambassador says here, everybody was talking about it in the streets.

Q. What you have said until now concerns general matters, Herr Woermann. I would like now to go into the documents with you which the prosecution has submitted.

PRESIDING JUDGE CHRISTIANSON: Just a moment. The last document you referred to was what document number or what exhibit number, the last one?

DR. SCHILF: 247, Prosecution Exhibit 247, page 26 of the English in book 6.

PRESIDING JUDGE CHRISTIANSON: Very well.

DR. SCHILF: A whole series of documents has been submitted but no activity on your part can be seen so that here again I needn't go into great detail. First of all, I would like to discuss Prosecution Exhibit 243,[1] on page 17 of the English and page 17 of the German. Prosecution Exhibit 244,[2] page 19 of the English, page 20 of the German, and Prosecution Exhibit 245,[3] page 23 of the English and page 28 of the German. These concern the offer of the Queen of the Netherlands and the King of the Belgians to mediate in the efforts for peace. Did you draw any conclusions from this concerning Hitler's aggressive intentions towards Belgium and Holland?

A. No, these things took place in November 1939. At that time I drew no such conclusions. Such an offer to mediate in my opinion did not lead to the conclusion that the King of the Belgians and the Queen of the Netherlands considered that there was such an intention. I think they served the greater purpose of trying to end the war altogether.

JUDGE MAGUIRE: Just a moment, Witness. Doesn't Exhibit 243 specifically state that they have exact information concerning the formation of German units which, from the military point of view, show every intention of attacking? With that statement in the document, how could you say that you had no suspicion or idea that such a thing was in the wind?

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[1] Document NG–1726, Prosecution Exhibit 243, a coded telegram of 8 November 1939, from the German Ambassador in Brussels to the Foreign Office, is reproduced earlier in this section.

[2] Document NG–1727, is not reproduced herein. It contains a copy of the offer of mediation of Queen Wilhelmina and King Leopold and some Foreign Office memoranda pertinent thereto.

[3] Document NG–1724, is not reproduced herein. This document is a coded telegram from the defendant von Weizsaecker to German diplomatic representatives in Brussels and The Hague concerning von Ribbentrop's conversations with the Belgian Ambassador and the Dutch Minister to Berlin on 14 November 1939. This discussion concerned the offer of mediation by Queen Wilhelmina and King Leopold and related matters.

DEFENDANT WOERMANN: May I look at the document? I don't have it here.

(Document submitted to witness)

No. According to this, my interpretation is quite wrong. I had been using the other document, which contains the actual offer of mediation. This is a telegram from our Ambassador, who says himself that he had heard that the trip of the King of the Belgians to The Hague had been caused by such threatening reports.

DR. SCHILF: Herr Woermann, did you know this document at that time? Because there is no distribution list and no initial.

A. I assume I did.

PRESIDING JUDGE CHRISTIANSON: You are speaking now of the Prosecution Exhibit 243?

A. Yes.

Q. Very well.

A. Perhaps, to explain, I should say that in general I am forced to interpret the documents now as I think I read them at the time. I can't say in every case what I really did believe when I read a document then; there is always something that I add from the way I read a document now.

At any rate, I was convinced that the peace offer was not a sign that this peace offer would have been declined by Hitler whether he had the intention of attacking Belgium or not.

Q. You are now referring to the peace offer that is shown in Prosecution Exhibit 244?

A. Yes.

Q. You may go ahead.

A. The British and the French were no more ready for peace than Hitler at that time, just after the outbreak of war.

DR. SCHILF: Immediately before that, Hitler had made a speech in the Reichstag, where he had struck a peaceable note. That was 8 October 1939?

A. Yes; Hitler himself struck a peaceful note at the time, but I did not take it at its face value. I know other people think differently about that, and this is just a personal opinion.

Q. From Exhibits 243 and 247, which have been mentioned, one can gather that as early as January 1940 strong German troop concentrations had taken place in the West. At that time did you draw any conclusions from that with reference to Hitler's aggressive intentions towards Belgium and Holland?

A. I was not informed about the extent of these troop concentrations, and could not draw any clear conclusions from them. It seemed a matter of course that, whether a German attack on Belgium was intended or not, German troops would have to be concentrated on the Belgian and Dutch frontiers in order to avoid flank attacks.

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Q. But at that time the frequently mentioned "Pol. I–M" Division of the Foreign Office was still subordinated to you; that was the Foreign Office's Liaison Office with the High Command of the Armed Forces. Through this office, did you not hear of military plans or intentions?

A. No. As the organization was, military plans were not brought to my attention by Department Pol. I–M. The liaison man of the Foreign Office with the OKH—that is, the High Command of the Army—Herr von Etzdorf, did not inform me about such plans either.

DR. SCHILF: May it please the Tribunal, Herr von Etzdorf was examined here as a witness on 22 June 1948, and he testified on this subject. May I quote the page of the English transcript?

PRESIDING JUDGE CHRISTIANSON: Yes, please.

DR. SCHILF: It is pages 9619 and following.[1]

According to Prosecution Exhibit 248[2] on page 36 of the English and 47 of the German, you were informed about the so-called Venlo incident at the time. Did you draw any conclusions from this matter?

PRESIDING JUDGE CHRISTIANSON: Just a moment. Might we have the number of the Exhibit again that you referred to now? This last one.

DR. SCHILF: Exhibit 248, at page 36.

PRESIDING JUDGE CHRISTIANSON: Thank you.

DR. SCHILF: Yes?

A. I was informed about the Venlo incident, but I did not connect this incident with German aggressive intentions. It was, of course, somewhat remarkable that Ribbentrop gave instructions to the officials of the Foreign Office concerned, including myself, that inquiries from the Dutch Government were to be answered to the effect that the case had not yet been cleared up.

Q. Were you surprised at this instruction?

A. I was, well, perhaps not exactly surprised, because such instructions were part of Ribbentrop's repertoire. However, as reason for this, we were also told that it had in actual fact not been cleared up yet, and it was hinted that some sinister British machinations were at the bottom of it all. As I said, the manner in which Ribbentrop handled the matter was somewhat remarkable.

Q. Were you able to see any indications at the time that the Venlo incident was used to justify later military operations, and that it had been started especially for this purpose?

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[1] Von Etzdorf's complete testimony appears in mimeographed transcript, 22 June 1948, pages 9586–9630.

[2] Document NG–2615, Prosecution Exhibit 248, is reproduced earlier in this section.

A. No, I did not think of that at the time, and after seeing the evidence I still don't believe it now. I think, however, that at a certain date Hitler and Ribbentrop got the idea that this incident should be used as justification for the later attack on Belgium.

Q. Apart from the troop concentrations on the frontier, there were also Dutch and Belgian complaints concerning aircraft flying over their territory. The prosecution has submitted Exhibit No. 246[1] in this connection, at page 25 of the English. That is a note made by you concerning a discussion with the Belgian Ambassador on 13 January 1940.

A. Talks about aircraft flying over the territory of both parties were always going on, not only with the Belgian Ambassador and the Netherlands Minister, but with almost all the chiefs of missions of the neutral countries. The complaints were mutual, not only that Belgian and Dutch aircraft were over Germany, but British aircraft also flew over Holland and Belgium. These complaints started immediately after the outbreak of war and lasted for the duration. Our Legations in the neutral countries were always having to bring up such complaints on the basis of reports of the High Command of the Armed Forces and the Foreign Office.

DR. SCHILF: May it please the Tribunal, with regard to these flights, as part of the general defense one of my colleagues will offer documents concerning the war of aggression on Belgium and Holland. I would just like to refer to that now; the documents will be submitted later on.

Q. Witness, when the witness Gaus was examined about his affidavit[2] I think it was made absolutely clear, in contrast to his otherwise somewhat muddled description of events, what these mutual flights were all about. Herr Gaus said that the acceptance of complaints and protests was part of the formal diplomatic business. Does that coincide with your opinion?

A. Yes.

Q. I would like to come back once again to Exhibit 246, on page 25 of the English and 31 of the German. That is a note of 13 January 1940. The last sentence states, and I quote: "The Luftwaffe operational staff has been requested to give us a plausible explanation for Belgian consumption." When this Exhibit 246 was submitted, there was a discussion about the correct English translation of this word "plausible—plausible explanation." Would you please state what you—after all, these are your words—meant by it at that time?

A. I did not know for what reason German aircraft were occasionally, or even more frequently, flying over Belgian territory. I thought it quite possible that it might be for reconnaissance

[1] Document NG–2790, Prosecution Exhibit 246, reproduced earlier in this section.

[2] Document NG–3945, Prosecution Exhibit 254, reproduced earlier in this section.

purposes; and I think it is quite normal and customary everywhere that if one wants to hand a note to the enemy side about it, they should get an explanation that sounds plausible to them.

Q. In the testimony of the witness Gaus—and not in his affidavit—he also mentioned a number of special assignments, special assignments for two officials of your division. The names were given—Herr von Rintelen and Herr von Schmieden—who received special assignments from Herr Ribbentrop. Would you please say something about that?

A. I can only repeat what I said before. These special assignments were given—especially in the case of Belgium—for the purpose of excluding me. If I heard anything about the special assignments from the people concerned, then it was, at most, behind the back of the Minister.

* * * * * * *

Q. I would like to ask you, Herr Woermann, whether from the fact that such special assignments were given before 10 May 1940 to members of your division at all, you drew any conclusions concerning any military intentions?

A. Well, I would like to sum up all the material that has been submitted in this respect by saying that for me too, at that time, there were indications that an attack on Belgium and the Netherlands was planned. However, I had no certain knowledge of such intentions up to the very last moment. Subsequently, a number of incidents which are brought up in this connection take on quite a different light.

* * * * * * *

H. The Invasion of the Union of Soviet Socialist Republics

TRANSLATION OF DOCUMENT NG-3824
PROSECUTION EXHIBIT 276

MEMORANDUM FROM DEFENDANT VON WEIZSAECKER TO THE HIGH COMMAND OF THE GERMAN ARMED FORCES, 14 SEPTEMBER 1940, TRANSMITTING A DRAFT OF INSTRUCTIONS FOR THE GERMAN MILITARY MISSION IN RUMANIA

Second copy [Handwritten] St.S. 171 Top Secret/40

St. S. 705 Berlin, 14 September 1940

Top Secret

On the basis of today's conversation between us, I send enclosed the draft of instructions [Dienstanweisung] for the German Military Mission in Rumania.

Signed: WEIZSAECKER

Copy: Under State Secretary Pol.
Dg. Pol
Pol. I M

To the High Command of the Armed Forces, attention of Admiral Canaris.

St. S. 705 14 September 1940

Top Secret

Instructions for the German Military Mission in Rumania

1. It is the task of the German Military Mission in Rumania to secure the basic military conditions within Rumania for the effective carrying out of the guarantee obligation, entered by the German Reich toward Rumania. It must, in particular, work for the strengthening of the Rumanian Army through consultation of the Rumanian military authorities to that respect, and it must as well guarantee an effective military protection of the vital interests of the German Reich in Rumania. The task of the Mission is in the above sense purely military. It excludes a political activity.

2. The Chief and the members of the German Military Mission in Rumania are attached to the German Embassy in Bucharest, which notifies the Rumanian Government.

3. The Chief and the members of the German Military Mission in Rumania are subordinated to the German Minister in Bucharest with respect to their activity in Rumania. This without prejudice to their military service [Dienstverhaeltniss]. In the absence of the German Minister or in case of his being prevented some other way to be on duty, they are subordinated to the deputy of the German Minister at that time. It makes no difference whether the deputy is appointed as Chargé d'Affaires or not. Where the members of the Military Mission appear on official duty or socially, together with the personnel of the German Ministry, their rank is determined by their service rank unless Rumanian Government Protocol is valid and orders a different placement. However, their rank is always below the rank of the German Minister and, in his absence, of the German Chargé d'Affaires at the time concerned.

4. The members of the Military Mission must report all their observations and all the news they learn, which is of political or military-political importance, to the Chief of the Military Mission. He reports them in turn to the Chief of the Mission [Chef der Mission]* together with his own information. The Chief of the Mission or his deputy on his part must keep the

* This term refers to the chief of the diplomatic mission; in this instance the German Minister to Rumania.

Chief of the Military Mission currently informed about the general situation in politics and military politics and to give him the political directives and instructions which are necessary as a basis for his military task.

5. All reports of the Chief of the Military Mission should go through the Chief of the Mission or his deputy to the High Command of the Armed Forces. Reporting on political questions is exclusively the task of the Ministry. The High Command of the Armed Forces fixes by separate order the limits of the competency of the Chief of the Military Mission and the Military Attaché at the German Embassy in Bucharest with regard to military reports.

The reports consist of a résumé and enclosures. A copy of the résumé and such enclosures that may be of interest for the Foreign Office must be enclosed for the Foreign Office.

The Military Mission must make use of the code and other institutions of the Foreign Service for its reporting by telegram. The telegrams show first in code the name of the Chief of the Military Mission, then openly the signature of the Chief of the Mission or his deputy. They must be submitted to him before being sent off. They must be addressed to the Foreign Office. The text—in code—is sent immediately to the High Command of the Armed Forces by the Foreign Office.

6. The Chief of the Military Mission receives his instructions for the military task entrusted to him, from the High Command of the Armed Forces. It [OKW] makes sure that an agreement with the Foreign Office is reached previous to his military instructions, which may be of importance for the tasks set for the Foreign Office.

The Chief of the Military Mission must keep the Chief of the Mission currently informed of all instructions sent to him by the OKW.

Berlin, September 1940

The Reich Minister of Foreign Affairs

The Chief of the Armed Forces High Command

TRANSLATION OF DOCUMENT NG-143
PROSECUTION EXHIBIT 333

MEMORANDUMS CONCERNING THE GERMAN MILITARY MISSION IN RUMANIA, 20 SEPTEMBER TO 18 OCTOBER 1940

1. Memorandum of Keitel, 20 September 1940, concerning the Alleged and the Real Tasks of the German Military Mission in Rumania and Related Matters

Copy
High Command of the Armed Forces
Armed Forces Operations Staff/Department National Defense
No. 33 298/40 Top Secret Matters for Chiefs (I)
Fuehrer Headquarters, 20 September 1940
6 copies, 6th copy

At the request of the Rumanian Government for German training personnel and instruction units, the Fuehrer and Supreme Commander has decided—

1. Army and air force are to send military missions to Rumania. Their alleged task [Aufgaben nach aussen hin] there is to show allied Rumania how to organize and train its armed forces.

2. The *real tasks,* which neither Rumania nor our own troops must be allowed to perceive, are—

a. To protect the oil fields against attack and destruction by a third power.

b. To render the Rumanian armed forces capable of carrying out certain tasks in accordance with a rigid plan developed in favor of German interests.

c. To prepare for the employment of German and Rumanian troops from Rumania in the event of a war with Soviet Russia being forced upon us.*

3. Hence it results that we need the following for the work and formulation of the military mission of the *army* and the strength of the instruction units:

a. German troops are only to be employed in special circumstances for the *direct protection of the oil fields* (sabotage, riots). This is more a task for the Rumanians. We must seem there to be collaborating with the special units already in the oil fields.

b. The German *"instruction unit"* for the time being is to be based on the size of a motorized division strengthened by tanks. To what extent it will later on be strengthened is to be determined.

* Concerning the plans for invading the U.S.S.R., the IMT stated in its judgment: "Nevertheless, as early as the late summer of 1940, Germany began to make preparations for an attack on the U.S.S.R., in spite of the nonaggression pact. This operation was secretly planned under the code name 'Case Barbarossa' * * *". Trial of the Major War Criminals, *op. cit.*, volume I, page 213. This question is also discussed in the testimony of General Franz Halder reproduced later in this section.

c. The *training* is to be carried out in such a manner that separate Rumanian units are trained for later employment on our side as "model divisions." The Rumanian command is to be so influenced that these units receive preferential treatment with regard to personnel and equipment. The influencing of the *whole* army for instance through the development of the officers' corps, courses to schools, etc., is of secondary importance for the time being in this most important task.

d. The individuals assigned to the military mission *in preparations for greater troops concentrations* are to have their tasks camouflaged.

4. The task of the military mission of the air force is above all to protect the oil fields by instruction units against air attacks and to train the Rumanian Air Force *for this purpose* and as far as possible, for later combined operations with the Rumanian Army forces.

After this the important thing is to prepare for the possible employment, later, of stronger German units from Rumania. The High Command of the Air Force will decide on the basis of the over-all position in what strength forces are available for the military mission.

5. A joint leader will be appointed in accordance with special service regulations for the settlement of questions affecting the military missions of *both parts* of the armed forces which are to be decided on the spot. For the rest, the military missions are directly subordinate to their High Commands. (In order to establish close liaison with the German Embassy, the army and air force are asked to assign their attachés to the military missions in addition to their normal duties.)

6. The introduction of negotiations with *Hungarian departments* for the transportation of German troops through Hungarian territory will be undertaken by the High Command of the Armed Forces (Foreign Dept.) in collaboration with the Foreign Office.

7. The Commanders in Chief of the Army and Air Force are asked for their opinions as to when and in what strength the military missions for Rumania will be available.

8. Names of officers who are to be sent to make preliminary investigations or as advance parties are to be submitted to the High Command of the Armed Forces which will obtain the Fuehrer's consent and have the names of these officers announced through the Foreign Office.

Chief of the High Command of the Armed Forces

Signed: KEITEL

2. Memorandum of Vice Admiral Buerkner, Chief of the Department Counterintelligence Foreign Countries of the High Command of the Armed Forces, 21 September 1940, transmitting to the Foreign Office a copy of Keitel's memorandum of 20 September 1940

Political [Pol.] I 1085
Top Secret

Copy Foreign No. 108/40 Top Secret-Matter for Chiefs Foreign Department III org.

21 September 1940
5 copies, 4th copy

[Stamp] Top Secret

I am forwarding the enclosed copy of the report from the High Command of the Armed Forces Operations Staff/National Defense No. 33 298/40 Top Secret Matters for Chiefs dated 20 September 1940 concerning the decision of the Fuehrer in the question of the military mission to Rumania.

Signed: BUERKNER

Copy submitted to State Secretary von Weizsaecker

As Deputy
Signature

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Chief Counterintelligence II
Chief Counterintelligence III

Distribution List:

State Secretary
Under State Secretary Political Division [the defendant Woermann]
Under State Secretary Legal Division
Dirigent Political Division
Pol. I M

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3. Memorandum from defendant von Weizsaecker to Field Marshal Keitel, 21 September 1940, requesting a more detailed explanation of Keitel's memorandum of 20 September 1940

Copy!
Political I 1038 Secret
2d copy for Under State Secretary Political Division
Berlin, 21 September 1940

[Stamp] Top Secret

Subject: German Military Mission in Bucharest.

In the letter of 20 September it is mentioned under paragraph 2 that the High Command of the Armed Forces considered including the military attachés in the missions in addition to their normal duties. I should be grateful for a more detailed explanation of this point, especially since it seems to me there are basic misgivings in the fact that the military attachés are members of the diplomatic corps with all the privileges but also all the restrictions that arise therefrom.

[Initial] W [Woermann].

In order to be able to go ahead with the other matters mentioned in the above cited letter as quickly as possible I should be grateful for an early and final opinion on the draft of a list of instructions for the military mission sent to you with my letter dated 14 September 1940.*

As Deputy:

Signed: WEIZSAECKER

To the Chief of the High Command of the Armed Forces
Field Marshal Keitel

via Liaison Officer of the Foreign Office [V.A.A.] [the defendant Ritter]

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4. File note of defendant Ritter, 18 October 1940, concerning his discussion with General Jodl on the urgency of speed in moving troops to Rumania

Ambassador Ritter

Political I 1153/40
Top secret
5 copies, this is No. 4

[Stamp] Top Secret

File Note

I have pointed out to General Jodl again to-day the urgent necessity of putting the troops destined for Rumania on the march as quickly as possible. General Jodl told me that the orders up till now stressed the need of all possible speed. He would, however, give the necessary orders once more and in particular instruct General Hansen to request the troops as quickly as possible.

Berlin, 18 October 1940

Signed: RITTER
[Initial] R [RITTER]

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* Document NG-3824, Prosecution Exhibit 276, reproduced as the first document in this section.

To be submitted to—

The State Secretary [the defendant von Weizsaecker]
The Under State Secretary Political Division [Initial] W [Woermann]
Political Division I M

PARTIAL TRANSLATION OF DOCUMENT LAMMERS 290
LAMMERS DEFENSE EXHIBIT 215

EXTRACTS FROM A LETTER FROM VON RIBBENTROP TO STALIN, 13 OCTOBER 1940, CONCERNING INTERNATIONAL DEVELOPMENTS DURING THE WAR, GERMANY'S REASONS FOR SENDING A MILITARY MISSION TO RUMANIA, AND RELATED MATTERS

Berlin, 13 October 1940

Mr. Dear Herr Stalin:

Over a year ago, through your decision and the Fuehrer's, the relations between Germany and Soviet Russia were reexamined and put on a completely new basis. I believe that the decision to reach an understanding between our two countries—which resulted from the realization that the Lebensraeume of our peoples adjoin each other but need not necessarily overlap and which led to a delimitation of mutual spheres of influence and to the German-Soviet Russian Nonaggression and Friendship Treaties—has proved advantageous to both sides. I am convinced that the consistent continuance of this policy of good neighborliness and a further strengthening of the political and economic collaboration will redound to the greater and greater benefit of the two great peoples in the future. Germany, at any rate, is prepared and determined to work to this end.

With such a goal, it seems to me, a direct contact between the responsible personalities of both countries becomes particularly important. I believe that such a personal contact through other than the customary diplomatic channels is indispensable from time to time in authoritarian regimes such as ours. Today I would, therefore, like to review briefly the events since my last visit to Moscow. Because of the historical importance of these events and in continuation of our exchange of ideas of last year, I would like to review for you the policy which Germany has pursued during this period.

After the conclusion of the Polish Campaign we became aware—and this was confirmed by many reports which were received during the winter—that England, faithful to her traditional policy, was building her whole war strategy on the hope of an extension of the war. The attempts made in 1939 to win over

the Soviet Union to a military coalition against Germany had already pointed in this direction. They were frustrated by the German-Soviet Russian Agreement. Later on, the attitude of England and France in the Soviet Russian-Finnish conflict was similar.

In the spring of 1940, these concealed intentions became quite evident. With this began the active phase of the English policy of extending this war to other peoples of Europe. After the end of the Soviet Russian-Finnish War, Norway was selected as the first target. By the occupation of Narvik and other Norwegian bases, Germany's iron ore supplies were to be cut off and a new front established in Scandinavia. It was only due to the timely intervention of the German leadership in Berlin and to the quick blows of our troops—who chased the English and the French out of Norway—that all of Scandinavia did not become a theater of war.

* * * * * * *

The Balkans were the next aim of the English policy of extending the war. According to reports which have reached us, all sorts of plans were repeatedly drawn up there this year, and in one instance their execution was already ordered. That those plans were not duly carried out was—as we know today—due exclusively to the almost unbelievable dilettantism and the astonishing discord among the political as well as the military leaders of England and France.

* * * * * * *

But even beyond that, the documents at our disposal prove that the gentlemen from the Thames would not have shrunk from attacking completely disinterested [unbeteiligten] nations, namely merely because they continued their natural trade with Germany despite British representations and even threats. Undoubtedly, the Soviet-Russian oil center of Baku and the oil port of Batum would even this year have become the victim of British attacks [Anschlaege], if the collapse of France and the expulsion of the British Army from Europe had not broken the British spirit of aggression and put an abrupt end to these activities.

Nevertheless, recognizing the complete absurdity of continuing this war, on 19 July the Fuehrer again offered peace to England. After the refusal of this last offer Germany is now determined to prosecute the war against England and her Empire until the final defeat of Britain. This fight to the finish is now in progress and will only end when the foe is annihilated militarily or when a real understanding is assured through elimination of the forces responsible for the war. It does not matter when this takes place.

For one thing is sure—the war as such has been won by us anyway. It is only a question of how long it will be before England, under the impact of our operations, admits to complete collapse.

The policy which we have recently pursued in the Rumanian-Hungarian controversy is similarly oriented. Our guarantee to Rumania is due exclusively to the necessity of protecting this Balkan region—which is especially important from the standpoint of the German supplies of oil and grain—against any disturbance by war, sabotage, etc., in the interior of this area, as well as against invasion attempts from the outside. The anti-German press tried at that time to place on the guarantee of the Axis Powers to Rumania interpretations the purpose of which was all too apparent. The truth of the matter is that toward the end of August—as we know—the situation between Rumania and Hungary, fomented by English agents as the notorious agitators in the Balkans, had reached such a point that the outbreak of war was imminent and, in fact, air skirmishes had already occurred. It was obvious that the peace could be saved in the Balkans only through the most rapid diplomatic intervention. There was no time for any negotiations or consultations. Matters had already gone too far from a military standpoint. This accounts for the completely improvised meeting in Vienna and the decision within 24 hours. It is, therefore, probably superfluous to emphasize that the tendency shown in the anti-German press at that time—to construe these German-Italian actions as aimed against the Soviet Union—was entirely unfounded and dictated solely by the intention to disrupt relations between the Axis and the Soviet Union.

The German Military Mission, too, sent a few days ago at the request of the Rumanians, together with the attached instruction units of the German Armed Forces, which again was taken as an occasion for flimsy speculations by our foe, serves both to train the Rumanian Army and to safeguard German interests because the German economy and the economies of these territories are closely interdependent. If England, as some reports seem to indicate, really intended to undertake some action against the oil fields of Rumania, for instance, we have indeed already taken measures to give the appropriate answer to such British attempts at intervention from abroad or of sabotage from within. In view of the completely misleading and tendentious press reports, which have been increasing in number during the last few days, I informed your Ambassador, Mr. Shkvarzev, a few days ago as to the true motives for our action and of the measures actually taken.

In connection with the sabotage attempts by the British, the

question raised by your government concerning reorganization of the regime on the Danube is of some importance. I may inform you that, in agreement with the Italian Government, we shall make proposals in the next few days which will take into account your wishes in the matter.

* * * * * * *

In summing up, I should like to state that, in the opinion of the Fuehrer, also, it appears to be the historical mission of the Four Powers—the Soviet Union, Italy, Japan, and Germany—to adopt a long-range policy and to direct the future development of their peoples into the right channels by delimitation of their interests on a world-wide scale.

In order further to clarify issues of such decisive importance for the future of our peoples and in order to discuss them in concrete form, we would welcome it if Mr. Molotov would pay us a visit in Berlin soon. I should like to extend a most cordial invitation to him in the name of the Reich government. After my two visits to Moscow, it would now be a particular pleasure for me personally to see Mr. Molotov in Berlin. His visit would then give the Fuehrer the opportunity to explain to Mr. Molotov personally his views regarding the future molding of relations between our two countries. Upon his return, Mr. Molotov will be able to report to you at length concerning the aims and intentions of the Fuehrer. If then—as I believe I may expect—the opportunity should arise for further elaboration of a common policy in accordance with my foregoing statements, I should be happy to come to Moscow again personally in order to resume the exchange of ideas with you, my dear Mr. Stalin, and to discuss—possibly together with representatives of Japan and Italy—the bases of a policy which could only be of practical advantage to all of us,

With best regards I remain

Respectfully yours,

(RIBBENTROP)

PARTIAL TRANSLATION OF DOCUMENT 446–PS
PROSECUTION EXHIBIT 341

EXTRACTS FROM HITLER'S INSTRUCTIONS TO THE ARMED FORCES ON PREPARATIONS FOR THE INVASION OF THE SOVIET UNION, 18 DECEMBER 1940*

The Fuehrer's Headquarters, 18 December 40

The Fuehrer and Supreme Commander of the German Armed Forces

OKW/WFSt Abt.L(I) Nr. 33 408/40 gK Chefs.

[Stamp] Secret

Through Officer Only

9 copies, 4th copy

Directive No. 21 Case Barbarossa

The German armed forces must be prepared *to crush Soviet Russia in a quick campaign* before the end of the war against England (Case Barbarossa).

For this purpose the *army* will have to employ all available units with the reservation that the occupied territories will have to be safeguarded against surprise attacks.

For the Eastern campaign the *air force* will have to free such strong forces for the support of the army that a quick completion of the ground operations may be expected and that damage of the Eastern German territories will be avoided as much as possible. This concentration of the main effort in the East is limited by the following reservations: That the entire battle and armament area dominated by us must remain sufficiently protected against enemy air attacks and that the attacks on England and especially the supply for them must not be permitted to break down.

Concentration of the main effort of the *navy* remains unequivocally against England also during an eastern campaign.

If occasion arises I will order the *concentration of troops for action* [Aufmarsch] against Soviet Russia 8 weeks before the intended beginning of operations.

Preparations requiring more time to start are—if this has not yet been done—to begin now and are to be completed by 15 May 1941.

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* This document was introduced in evidence in the IMT trial as Exhibit USA–31, and the full German text is reproduced in Trial of the Major War Criminals, *op. cit.*, volume XXVI, pages 47–52. Further extracts from this document and related documents are reproduced in the "High Command Case," (United States *vs.* Wilhelm von Leeb, et al., case 12), volumes X and XI, this series.

Great caution has to be exercised that the intention of an attack will not be recognized.

The preparations of the High Command are to be made on the following basis:

I. General Purposes

The mass of the Russian *Army* in western Russia is to be destroyed in daring operations by driving forward deep wedges with tanks and the retreat of intact battle-ready troops into the wide spaces of Russia is to be prevented.

In quick pursuit a [given] line is to be reached from where the Russian air force will no longer be able to attack German Reich territory. The final goal [Endziel] of operations is the protection from Asiatic Russia from the general line Volga-Arkhangelsk. In case of necessity, the last industrial area in the Urals left to Russia could be eliminated by the Luftwaffe.

In the course of these operations the Russian Baltic Sea Fleet will quickly lose its bases and will no longer be able to fight.

Effective intervention by the Russian *air force* is to be prevented through forceful blows at the beginning of the operations.

II. Probable Allies and their tasks

* * * * * * *

2. It will be the task of Rumania, together with the forces concentrating there, to pin down the opponent on the other side and, in addition, to render auxiliary services in the rear area.

* * * * * * *

IV. It must be clearly understood that all orders to be given by the Commanders in Chief on the basis of this letter of instructions are *precautionary measures,* in case Russia should change her present attitude towards us. The number of officers to be drafted for the preparations at an early time is to be kept as small as possible. Further coworkers are to be detailed as late as possible and only as far as each individual is needed for a specific task. Otherwise, the danger exists that our preparations (the time of their execution has not been fixed) will become known and thereby grave political and military disadvantages would result.

V. I am expecting the reports of the Commanders in Chief on their further plans based on this letter of instructions.

The preparation planned by all branches of the armed forces are to be reported to me through the High Command of the Armed Forces, also in regard to their time.

[Initial] J [JODL]
[Initial] W [WARLIMONT]
[Initial] K [KEITEL]
[Signed] ADOLF HITLER

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OKW:	
Armed Forces Operations Staff	4th copy
Department National Defense	5–9th copy

TRANSLATION OF DOCUMENT LAMMERS 315
LAMMERS DEFENSE EXHIBIT 237

TELETYPE FROM DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 22 JANUARY 1941, CONCERNING HIS DISCUSSION WITH THE RUSSIAN AMBASSADOR TO BERLIN ON GERMAN INTENTIONS IN THE BALKANS

State Secretary No. 59 Berlin, 22 January 1941

I received the Soviet Russian Ambassador late this afternoon and informed him orally of the reply decided upon in answer to his statement of 17 January. I then handed him the text of the reply in the form of a memorandum.

I also told Dekanosov that Count Schulenburg [German Ambassador in Moscow] would hand a corresponding communication to Mr. Molotov either this evening or tomorrow morning.

Dekanosov then inquired—for his own information, he said—about the purport of certain expressions in the reply given to him. He wanted to find out how soon German troops might be expected to march through Bulgaria against Greece—as mentioned therein—as well as whether this decision was to be considered as definite.

I referred the Ambassador in this connection to the text of paragraphs 1 and 3 of the memorandum.

Thereupon the Ambassador repeated from his communication of the 17th instant that the Soviet Government considered the appearance of any foreign military forces on Bulgarian territory as a violation of its security interests. Our statement at the end of paragraph 3 of the memorandum was not in agreement with that view.

I replied that our view was made clear in paragraph 3 and paragraph 4 of the memorandum. We believed that our plans would actually serve Soviet interests, which are opposed to England's gaining a foothold in these regions. Moreover, I asked the Ambassador to go over the memorandum again very carefully at

933764O—51——82

home. He would then surely reach the conclusion that our answer removed his anxiety.

Submitted herewith to the Reich Foreign Minister (by teletype).

Signed: WEIZSAECKER

TRANSLATION OF DOCUMENT 1317-PS
PROSECUTION EXHIBIT 1051

MEMORANDUM OF A STAFF MEETING OF THE MILITARY ECONOMICS AND ARMAMENT OFFICE OF THE HIGH COMMAND OF THE ARMED FORCES, 28 FEBRUARY 1941, CONCERNING PREPARATIONS FOR THE ECONOMIC UTILIZATION OF RUSSIAN ECONOMY[1]

Rue Ic — Berlin, 1 March 1941

Subject: Oldenburg[2]

[Stamp] Top Secret

5 copies, 1st copy

Memorandum

Conference with Office Chief, Lieutenant General (Infantry) Thomas[3] on 28 February 1941

Present: Lt. General (Infantry) Thomas
Colonel Becht
Lt. Col. Witte
Lt. Col. Luther
Lt. Col. Matsky
Major von Gusovius
Major von Payr
Major Huch
Captain Emmerich
Captain Dr. Hamann

The General [Thomas] ordered that an extended plan of organization be drafted for the Reich Marshal.

Essential Points—

1. The whole organization to be subordinate to the Reich Marshal. *Purpose*—Support and extension of the measures of the Four Year Plan.

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[1] This document was introduced in the IMT trial as Exhibit USA-140 and the full German text appears in Trial of the Major War Criminals, op. cit., volume XXVII, pages 169-171.

[2] "Oldenburg" or "Barbarossa-Oldenburg" was the code name for the economic side of the preparations for the occupation of Russian territory.

[3] General Thomas at this time was chief of the Military-Economic and Armament Office (Wehrwirtschafts- und Ruestungsamt—Wi Rue Amt) of the High Command of the German Armed Forces.

2. The organization must include everything concerning war economy, excepting only food, which is said to be made already a special mission of State Secretary Backe.

3. Clear statement that the organization is to be independent of the military or civil administration. Close cooperation, but instructions direct from the central office in Berlin.

4. Scope of activities to be divided in two steps—

a. Accompanying the advancing troops directly behind the front lines, in order to avoid the destruction of supplies and to secure the removal of important goods.

b. Administration of the occupied industrial districts and exploitation of economically complimentary districts.

5. In view of the extended field of activity, the term *military economics inspection* [Wehrwirtschaftinspektion] is to be used preferably, instead of armament inspection [Ruestungsinspektion].

6. In view of the great field of activity, the organization must be generously equipped and personnel must be correspondingly numerous. *The main mission of the organization* will consist of *seizing raw materials and taking over all important concerns.* For the latter mission reliable persons from German concerns will be interposed suitably from the beginning, since successful operation from the beginning can only be performed by the aid of their experiences (for example, lignite, ore, chemistry,* petroleum).

After the discussion of further details, Lieutenant Colonel Luther was instructed to make an initial draft of such an organization within one week.

Close cooperation with the individual sections in the building is essential. An officer must still be appointed for economics and armaments [departments], with whom the operational staff can remain in constant contact. Economic [department] is to give each section chief and Lieutenant Colonel Luther a copy of the new plan regarding Russia.

Major General Schubert is to be asked to be in Berlin the second half of next week. Also, the four officers who are ordered to draw up the individual armament inspections are to report to the office chief at the end of next week.

[Signed] HAMANN

Distribution:

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Rue	2d copy.
Lt. Col. Luther	3d copy.
Planning	4th copy.
Extra copies	5th copy.

* Evidence concerning the selection of experts from the I.G. Farben concern for work in chemical plants in Russia is included in the materials on the "I.G. Farben Case," (United States *vs.* Carl Krauch, et al., case 6), volumes VII and VIII.

PARTIAL TRANSLATION OF DOCUMENT 1456–PS
PROSECUTION EXHIBIT 1050

EXTRACT FROM A MEMORANDUM OF GENERAL THOMAS, 20 MARCH 1941, NOTING GOERING'S APPROVAL OF THE PROPOSED ORGANIZATION FOR THE UTILIZATION OF RUSSIAN ECONOMY AFTER THE INVASION OF RUSSIA

Berlin, 20 March 1941

Chief, Military Economics and Armament Office

Top Secret

Report made to Reich Marshal Goering on 19 March 1941

The following matters were the subject of the report:

1. *Organization Barbarossa*—The Reich Marshal fully agrees with the organization which was proposed to him.

The following persons shall become members of the executive staff: Koerner, Backe, Hanneken, Alpers, and Thomas. The Military Economics and Armament Office will be the executive office. The Reich Marshal considers it important that a uniform organization be created. He agrees that individual agencies will be under the leadership of officers, particularly General Schubert. The heads of the economics inspectorates the Reich Marshal wants to see in person. Hanneken is asked to propose the best qualified personalities of industry and business.

2. The Reich Marshal approved of the regulations worked out in Military Economics and Armament Office for destructive measures by the air force in case Barbarossa. A copy was given to Captain von Brauchitsch for forwarding it to the general staff of the air force.

* * * * * * *

[Distribution List]

First copy to the Office Chief [Thomas].
Second copy to the Economic Department [Wi].
Third copy to the Armament Department [Rue].
Fourth copy to the Raw Material Department [Ro].
Fifth copy to the Colonel Jansen.
Sixth copy to the draft file.

TRANSLATION OF DOCUMENT NG–2871
PROSECUTION EXHIBIT 525

HITLER DECREE, SIGNED BY HITLER AND DEFENDANT LAMMERS, 20 APRIL 1941, APPOINTING ROSENBERG AS COMMISSIONER FOR THE CENTRAL CONTROL OF QUESTIONS CONNECTED WITH THE EAST-EUROPEAN REGION

I appoint Reich Leader Alfred Rosenberg as my Commissioner for the Central Control of Questions Connected with the East-European Region [Beauftragter fuer die zentrale Bearbeitung der Fragen des osteuropaeischen Raumes].

To accomplish the tasks to which Reichsleiter Rosenberg has been assigned, he will have at his disposal an Office for the Central Control of Questions Connected with the East-European region [Dienststelle fuer die zentrale Bearbeitung der Fragen des osteuropraeischen Raumes], which is to be set up according to his own instructions.

The funds required for this office will be appropriated in a lump sum from the budget of the Reich Chancellery.

Fuehrer Headquarters, 20 April 1941

The Fuehrer
Signed: ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery
Signed: DR. LAMMERS

[Stamp] The Reich Minister and Chief of Reich Chancellery

Certified as to authenticity.
Berlin, 8 May 1941
[Signed] v. STUTTERHEIM
Reich Cabinet Councillor

TRANSLATION OF DOCUMENT LAMMERS 342
LAMMERS DEFENSE EXHIBIT 262

MEMORANDUM FROM GENERAL JODL TO THE GERMAN FOREIGN OFFICE, ATTENTION OF DEFENDANT RITTER, 23 APRIL 1941, REPORTING FLIGHTS OF RUSSIAN AIRPLANES OVER GERMAN OCCUPIED TERRITORY

Fuehrer Headquarters, 23 April 1941
High Command of the Armed Forces
Armed Forces Operations Staff (1 Op)
No.: 00 731/ a/41 Top Secret

Top Secret

Subject: Soviet-Russian border violations.
To Foreign Office

Attention of Ambassador Ritter.

Reports coming in almost daily of further border violations by Soviet Russian planes confirm the view of the High Command of the Armed Forces transmitted to the Foreign Office by letter of 1 March to the effect that it is a matter of conscious provocation on the part of Soviet Russia.

On 11 April two 2-motor planes of the type SB 2 flew over the city of Belz at a great height. On 11 April one plane each was sighted at Malkinia and Ostrow-Mazowiecke. Also on 14 April, a Soviet Russian plane was reported over Langszorgen. On 15 April several planes flew over the demarcation line in the Dynow-Lodzina area—south of Losko. On 17 April alone, eight planes were identified over German territory—four each near Deumenrode and Swiddern; on 19 April, two planes over Malkinia, another at an altitude of 200 meters (!) over Ostrowiec.

Besides these, a number of other planes were reported, the nationality of which, however, could not be identified with certainty because of the altitude at which they were flying. There is no doubt, however, from the direction of the flight and the evidence obtained from the German task forces stationed there, that in these cases also, border trespass flight by planes of the U.S.S.R. are involved.

The High Command of the Armed Forces now finds that the steadily mounting number of border trespass flights can only be regarded as the deliberate employment of the air force of the U.S.S.R. over the sovereign territory of the Reich. Since more German units had to be brought up for security reasons because the forces on the other side of the German eastern border were

strengthened, we have to reckon with increased danger of grave border incidents.

The orders of the High Command of the Armed Forces for the exercise of the utmost restraint nevertheless continue in force.

The Chief of the High Command of the Armed Forces

BY ORDER:
Signed: JODL

PARTIAL TRANSLATION OF DOCUMENT 1188-PS PROSECUTION EXHIBIT 526

LETTER FROM KEITEL TO DEFENDANT LAMMERS, 25 APRIL 1941, ACKNOWLEDGING RECEIPT OF THE DECREE APPOINTING ROSENBERG AS COMMISSIONER FOR THE CENTRAL CONTROL OF QUESTIONS CONNECTED WITH THE EAST-EUROPEAN REGION AND NOTING THE APPOINTMENT OF GENERALS JODL AND WARLIMONT AS KEITEL'S PERMANENT REPRESENTATIVES ON ROSENBERG'S STAFF[1]

25 April 1941 [Handwritten] L/IV

The Chief of the High Command of the Armed Forces
[Initial] W [Warlimont] 28 April

[Stamp] Top Secret

Through Courier

To the Chief of the Reich Chancellery
Reich Minister Dr. Lammers

Personal

Most honored Reich Minister:

I herewith acknowledge having received the copy of the Fuehrer Decree,[2] nominating Reich Leader Alfred Rosenberg as his Commissioner for the Cenral Control of Questions connected with East European Region. As my permanent deputy the Chief of the Armed Forces Operations Staff, Lt. General (Artillery) Jodl, as well as his deputy, Brigadier General Warlimont, have been announced to Reich Leader Rosenberg.

Heil Hitler!
Respectfully Yours,
[Initial] K [KEITEL] 25 April

[Handwritten] To the files: Rosenberg

[1] Document 1188-PS contained a number of separate but related items, including a later letter, dated 20 May 1941, from the defendant Lammers to Keitel. This second letter is reproduced later in this section under the same document and exhibit number.

[2] The enclosed decree was the decree of 20 April 1941, reproduced earlier in this section as Document NG-2871, Prosecution Exhibit 525.

WEIZSAECKER DOCUMENT 227
WEIZSAECKER DEFENSE EXHIBIT 156

MEMORANDUM OF DEFENDANT VON WEIZSAECKER TO VON RIBBENTROP, 28 APRIL 1941, ADVISING AGAINST WAR WITH RUSSIA*

Frames 311–312, serial F 15

Memorandum by the State Secretary in the German Foreign Office (Weizsaecker)

Teletype

Berlin, 28 April 1941

To the Reich Foreign Minister.

Concerning Count Schulenberg's memorandum on German-Russian relations:

I can summarize in one sentence my views on a German-Russian conflict. If every Russian city reduced to ashes were as valuable to us as a sunken British warship, I should advocate the German-Russian war for this summer; but I believe that we would be victors over Russia only in a military sense and would, on the other hand, lose in an economic sense.

It might perhaps be considered an alluring prospect to give the Communist system its death blow and it might also be said that it was inherent in the logic of things to muster the Eurasian Continent against Anglo-Saxondom and its following. But the sole decisive factor is whether this project will hasten the fall of England.

We must distinguish between two possibilities—

(*a*) England is close to collapse—if we accept this (assumption), we shall encourage England by taking on a new opponent ("We shall" is deleted, but the words written in above are illegible). Russia is no potential ally of the English. England can expect nothing good from Russia. Hope in Russia is not postponing England's collapse. (In handwriting:) With Russia we do not destroy any English hopes.

(*b*) If we do not believe in the imminent collapse of England, then the thought might suggest itself that by the use of force, we must feed ourselves from Soviet territory. I take it as a matter of course that we shall advance victoriously to Moscow and beyond that. I doubt very much, however, whether we shall be able to turn to account what we have won in the face of the well-known passive resistance of the Slavs. I do not see in the

* This document was taken from "Nazi-Soviet Relations, 1939–41, Documents from the Archives of the German Foreign Office," Department of State Publication 3023. (U. S. Government Printing Office, Washington, D. C., 1948).

Russian State any effective opposition capable of succeeding the Communist system and uniting with us and being of service to us. We would therefore probably have to reckon with a continuation of the Stalin system in eastern Russia and in Siberia and with a renewed outbreak of hostilities in the spring of 1942. The window to the Pacific Ocean would remain shut.

A German attack on Russia would only give the British new moral strength. It would be interpreted there as German uncertainty as to the success of our fight against England. We would thereby not only be admitting that the war was going to last a long time yet, but we might actually prolong it in this way, instead of shortening it.

WEIZSAECKER

This position is drafted in very brief form, since the Reich Foreign Minister wanted it within the shortest possible time.

WEIZSAECKER

TRANSLATION OF DOCUMENT 1025-PS
PROSECUTION EXHIBIT 524

MEMORANDUM OF ALFRED ROSENBERG, 2 MAY 1941, CONCERNING THE AGREEMENT OF ROSENBERG AND DEFENDANT LAMMERS ON PROPOSING TO HITLER THE APPOINTMENT OF A REICH MINISTER AND PROTECTOR GENERAL FOR THE OCCUPIED EASTERN TERRITORIES AND RELATED MATTERS*

Berlin, 2 May 1941

Ideas on the Establishing of a Central Office to deal with questions concerning the Eastern European Region

Reich Minister Dr. Lammers and the undersigned have agreed to suggest to the Fuehrer that he name a Reich Minister and Protector General for the occupied Eastern Territories [General-protector fuer die besetzten Ostgebiete]. Herewith the proposal, which has been drafted by Dr. Lammers and discussed with the undersigned. Insofar as the establishing of a central office is concerned, the undersigned would ask the Fuehrer to consider whether it would not be expedient to separate this office from the red tape connected with interior politics, by means of a new type of name, as was already the case with the title of Protector General. This office has its own particular political position in the Reich itself, but nevertheless is subject to the scrutiny of the outside world. The undersigned therefore suggests that the

* This memorandum was found in Alfred Rosenberg's files on Russia.

Fuehrer consider whether the permanent representative in the post of State Secretary, who in this case is himself already Gauleiter and Reich Commissioner, that is, of ministerial rank, cannot assume the Title of Reich Commissioner attached to the Protector General. Similarly the two or three Under State Secretaries requested for the future would receive the rank of Chief Commissioner and the Ministerialdirektoren the title of Divisional Commissioners. Accordingly Ministerialdirigenten and Ministerial Counsellors [Ministerialraete] would simply be designated as Commissioners with particular duties. This proposal is in accordance with the titles prepared for the Reich Commissioners in the East, with the exception of the Baltic States: Reich Commissioner, Chief Commissioner (corresponding to a Governor General under the former Russian organization), State Commissioner (corresponds to the former Russian Governor) and City Commissioner (equivalent to the rank of a Lord Mayor). In this way it would be possible to make the ranks in Berlin and the Reich Commissioners coincide and it would be possible to avoid using too many different conceptions of the same office. Internally the order of precedence as suggested above could be made out.

PARTIAL TRANSLATION OF DOCUMENT 1188–PS
PROSECUTION EXHIBIT 526

LETTER FROM DEFENDANT LAMMERS TO KEITEL, 20 MAY 1941, DISCUSSING HITLER'S DESIRES AS TO THE ESTABLISHMENT OF A CIVIL ADMINISTRATION IN THE EAST IN THE EVENT OF MILITARY OCCUPATION AND TRANSMITTING DRAFTS OF THREE FUEHRER DECREES AS A BASIS FOR FURTHER DISCUSSIONS[1]

[Stamp] Top Secret
Matter for Chiefs!
Only through Officers!

Copy
(6 copies, 4th copy)

OKW/WFSt/Abt. L IV/QU
No. 44558/41 g.k.Chfs.

Berlin W. 8, 20 May 1941
Vosstrasse 6

The Reich Minister and Chief of the Reich Chancellery
Reich Chancellery 299A Top Secret

To the Chief of the High Command of the Armed Forces,
Field Marshal Keitel

Personal!

Subject: Administration of the eastern European territories in case of their occupation.

Most honored Field Marshal:

On 16 May I have again made a report to the Fuehrer concerning a civil administration in the eastern territories in case of their military occupation. The Fuehrer has made no definite decisions but rather prefers to discuss the matter once more with all concerned. The Fuehrer does not plan to hold a general meeting but intends to speak specifically to each gentleman concerned. As basis for these conferences I enclose revised drafts for the three Fuehrer decrees in question[2] with short comments about differences of opinion,[3] which have already appeared in previous conferences.

Heil Hitler!
Respectfully Yours
Signed: DR. LAMMERS

[1] Document 1188–PS contained a number of separate but related items, including an earlier letter, dated 25 April 1941, from Keitel to the defendant Lammers. This earlier letter is reproduced earlier in this section under the same document and exhibit number.

[2] Only the draft decree concerning the economy in the newly occupied eastern territories is reproduced hereinafter. The titles of the other two draft decrees were "Fuehrer Decree concerning the Administration of newly Occupied Eastern Territories" and "Fuehrer Decree concerning the Appointment of Armed Forces Commanders in the newly occupied eastern territories."

[3] Only the "Comments" concerning the draft decree on the economy in the newly occupied eastern territories is reproduced hereinafter.

20 May 1941

Decree of the Fuehrer Concerning the Economy in the Newly Occupied Eastern Territories

Of . . . . . [space for date]

(1) In the newly Occupied Eastern Territories Reich Marshal Hermann Goering as the Plenipotentiary of the Four Year Plan shall issue all orders concerning matters within his jurisdiction which are essential to the highest utilization of existing stocks, to the highest increase of the industrial capacity, and to the further building up of all economic resources that can be utilized for the German war economy.

(2) In order to accomplish his task, he may also give orders directly to Wehrmacht agencies.

(3) This decree becomes effective today. It may only be published after special authorization.

Fuehrer Headquarters . . . . . [space for date]

The Fuehrer,

The Chief of the High Command of the Armed Forces
The Reich Minister and Chief of the Reich Chancellery

Comments

Reichsleiter Rosenberg wants to see no limitations applied to the principle that civil agencies of the newly Occupied Eastern Territories should get orders and directives from nobody else but him. He therefore desires that within these territories he should also be authorized to give orders concerning measures with regard to the Four Year Plan. He is willing, however, to follow those directives which the Reich Marshal, in his capacity as a Plenipotentiary for the Four Year Plan, has given personally. Rosenberg, therefore, suggested that the Plenipotentiary for the Four Year Plan should use the Reich Minister for the Occupied Eastern Territories as his Plenipotentiary General for carrying out his tasks in the newly Occupied Eastern Territories. The latter should then receive orders from him [Goering] for that purpose. The Reich Marshal turned down such an arrangement.

In the event that Reichsleiter Rosenberg's suggestion is disapproved by the Fuehrer, Rosenberg at least wants to be able to "coordinate" measures taken by him as the Reich Minister for the Occupied Eastern Territories with those measures taken by the Plenipotentiary of the Four Year Plan. In order to make sure of that, he desires to insert after the word "jurisdiction"

["Befugnisse"] in paragraph 1, line 4 [of decree reproduced immediately above] the words "via the Reich Minister for the Eastern Occupied Territories."

Reichsleiter Rosenberg, furthermore, has misgivings relative to the publication of this decree, since it left no doubt that Germany was only interested in the Occupied Eastern Territories for purposes of extreme economic exploitation. If that became known in these territories the political reaction there will be disastrous.

TRANSLATION OF DOCUMENT NG–4755
PROSECUTION EXHIBIT 3586

LIST OF GERMAN FOREIGN OFFICE PERSONNEL SUBMITTED TO VON RIBBENTROP, 22 MAY 1941, IN CONNECTION WITH THE "FILLING OF POSTS IN THE EVENT OF LARGE SCALE ACTION IN THE EAST"

[Stamp] Top secret

Referent: Senior Legation Counsellor Grosskopf.

[Stamp] Top Secret
Foreign Office
D IX 1 Top Secret
Received 24 May 1941

Filling of positions in the event of large-scale action in the East

1. Legation Counsellor Hilger, personal interpreter at disposal of Reich Foreign Minister.

Prospective representatives of the Foreign Office in the Reich Commissariats which may be created in the eastern area.

2. *Ukraine.* Prospective location, Kiev; Representative: Minister von Twardowski.

Staff

Legation Counsellor von Herwarth
Consular Secretary Hermann Strecker
Referent Rost from the Office Ribbentrop
Chancellor Buchholz

Because of the geographical extent of the territory it seems advisable to set up agencies also at the following places, subordinate to the representative—

a. Kharkov—Consul General Karl Walther
b. Odessa—Senior Legation Counsellor Roth
c. Rostov on the Don—Consul Eckert

[Handwritten marginal note] to be Filed [Initials] GR [Grosskopf] 21 July.

3. *Caucasus.* Prospective location, Tiflis. Minister First Class Dienstmann

4. *Baltic States* with extensions eastward. Prospective location, Riga. General management—Minister Dr. Dr. Erich Zechlin. Referenten for the individual countries:

a. Lithuania—Minister Zechlin (?)

b. Latvia—von Bruemmer (Dept. Inf.)

c. Estonia—von Wrangell (D IX)

It might be necessary soon to establish special offices in Riga, Reval, and Kovno. In this event—

d. Riga—Minister von Kotze, simultaneously deputy of von Zechlin

e. Tallin—Oberfuehrer [sic] Spelsberg

f. Kaunas—(to be decided by Minister Zechlin)

5. *White Russia* and the Polish territories still belonging to the U.S.S.R. Prospective location, Minsk

a. Dr. Kleist of the Office Ribbentrop

or

b. Minister First Class von Saucken

6. *Central Russia.* Prospective location Moscow

a. Minister First Class von Saucken

or

b. Minister von Tippelskirch

c. Legation Counsellor First Class Pfleiderer

or

d. Consul General Pfeiffer (now in Tirana)

It might be profitable to assign the prospective heads of the various agencies to the commands of the army groups *at the beginning of the push toward the East, as representatives of the Foreign Office.*

Submitted through Minister Bergmann
[initial] B [BERGMANN] 24 May
Min. Dir. Schroeder [initial] B [BERGMANN]
As Deputy 24 May
State Secretary von Weizsaecker
[initial] W [WEIZSAECKER] 26 [May]
to the Reich Foreign Minister Berlin, 22 May 1941
[Signed] GROSSKOPF

TRANSLATION OF DOCUMENT NG-1691*
PROSECUTION EXHIBIT 542

LETTER FROM DEFENDANT LAMMERS TO REICHSLEITER ROSENBERG, 19 JUNE 1941, TRANSMITTING A COPY OF A LETTER FROM VON RIBBENTROP TO LAMMERS ON THE ADMINISTRATION OF EASTERN EUROPEAN TERRITORIES IN CASE OF OCCUPATION

The Reich Minister and Chief of the Reich Chancellery
RK 365 A Top Secret

Berlin W. 8, 19 June 1941
Vosstrasse 6

[Stamp] *Top Secret!*

Personal

To Reich Leader Rosenberg

[Stamp]
Chancellery Rosenberg
Received: 20 June 1941
No. 056 [Illegible initial]

[Handwritten] Submitted to RL [Reich Leader] on 20 June.
Berlin W. 35, Margaretenstrasse 17

Subject: Administration of the eastern European territories in case of their occupation.

Your letter of 3 June 1941.

Dear Herr Rosenberg,

Your above mentioned letter has been answered by the Reich Foreign Minister by letter dated 13 June.

For your information I herewith enclose copy of this letter.

Heil Hitler!
Yours very respectfully
[Signed] DR. LAMMERS

Copy to Rk. 365 A top secret.

at present Fuschl, 13 June 1941

The Reich Foreign Minister

[Stamp] *Top secret!*

To the Reich Minister and Chief of the Reich Chancellery, Dr. Lammers
Berlin

* Photographic reproduction of this document appears in appendix A, volume XIV.

Dear Mr. Lammers:

I understand from the copy of the letter by Reich Leader Rosenberg of 3 June—031/R/Ma—which you enclosed with your letter of 5 June—Rk. 345 A top secret—concerning the administration of the eastern European territories, that Reich Leader Rosenberg does not deem it necessary to appoint representatives of the Foreign Office with the Reich Commissioners. I cannot agree to this and I do not think that the reasons mentioned are applicable.

It is evident that the impending events will bring about political movements all over the East. The territory occupied by German troops will border on most sides on foreign states, which will very much affect their interests. Therefore, at the very beginning of the occupation, political problems of various kinds will result from the relationship of the occupied territories to their neighboring countries.

Also in those instances where no bordering on foreign countries is concerned, as in the case of the Baltic countries, very soon problems of commerce and shipping (Sweden and Finland) will appear. Concerning the treatment of the arising political questions, whether they are brought up by the governments of the foreign countries or by the Germans and in view of the great extension of the occupied territory, the conditions of which cannot be judged from Berlin, the Foreign Office cannot desist from having representatives in the various places who are well versed in foreign politics, instructed on our actual political relationship to foreign countries, who have a good knowledge about the country, and who will report according to their observations. Furthermore, in those parts of the occupied territories, which at a later date will again become more or less independent states, the inner development starting from the beginning of the occupation is going to be most important also for the foreign relations of the Reich to these states, so that it seems suitable to have representatives of the Foreign Office present already during the time the formation of these states is being prepared. Furthermore, it is possible that incidents may occur any day at the outer borders of the occupied territory which necessitate that immediate measures be taken, without it being possible to first make an inquiry in Berlin. It is necessary that in such cases the Reich Commissioners can avail themselves of representatives of the Foreign Office who are able to advise them from a point of view of foreign politics. Finally we might possibly have to use certain parts of the occupied territories as a basis from which we will be able to start actions of a propagandistic or any other kind addressed to neighboring third countries. For this, too, the Foreign Office needs the participation of its own local representatives.

Concerning all this, it goes without saying that the representatives of the Foreign Office are not to have any executive power of their own. On the contrary, they have to report on foreign political important relationships and events and they have to advise the Reich Commissioners in all questions of a foreign political nature. I am of the opinion that the Reich Commissioners themselves are highly interested in being assisted by such advisers. The position which these representatives of the Foreign Office with the Reich Commissioners of the eastern territory will have, will be the same as the position of the representatives which the Foreign Office has assigned to the Governor General in Krakow, the Reich Commissioner in The Hague and the Military Commander in Brussels. At these three places the activity of my representatives never lead to any friction, but in every respect it proved to be beneficial. For the eastern occupied territories their assignment is necessary to a still higher degree, as here in this territory the relationship to foreign countries are of a much higher importance than is the case in the Polish Government General, in Holland and in Belgium.

I intend to charge the leader of my special staff for Russia, who at the same time is my liaison man with Reich Leader Rosenberg, Legation Counsellor Grosskopf, with the central summarizing of the reports and the work done by the representatives of the Foreign Office, so that in this way, too, the close cooperation of this sphere of work with Reich Leader Rosenberg is completely guaranteed.

I should like to ask you to inform Reich Leader Rosenberg of this conception of mine and to cause proceedings to be taken accordingly. Then I will tell him the names of the persons which I propose for the various posts.

Heil Hitler!
Yours very truly
Signed: VON RIBBENTROP

933764O—51——83

TRANSLATION OF DOCUMENT LAMMERS 363
LAMMERS DEFENSE EXHIBIT 282

MEMORANDUM OF PAUL O. SCHMIDT, 22 JUNE 1941, CONCERNING THE CONVERSATION OF VON RIBBENTROP AND THE RUSSIAN AMBASSADOR TO BERLIN ON THE DAY GERMANY INVADED RUSSIA

Office Reich Foreign Minister — Aufz. RAM 37/41

Memorandum of the Conversation between the Reich Foreign Minister and Soviet Russian Ambassador Dekanosov in the Foreign Office at 4 a. m. on 22 June (1941)

The Reich Foreign Minister began the conversation with the remark that the hostile attitude of the Soviet Government toward Germany and the serious threat that Germany saw in the Russian concentration on the eastern border of Germany, had forced the Reich to military countermeasures. Dekanosov would find a detailed statement of the reasons for the German attitude in the memorandum, which the Reich Foreign Minister then handed him. The Reich Foreign Minister added that he regretted very much this development in German-Russian relations as he in particular had made every attempt to bring about better relations between the two countries. It had, however, unfortunately transpired that the ideological conflict between the two countries had become stronger than common sense, upon which he, the Reich Foreign Minister, had pinned his hopes. He had nothing further, the Reich Foreign Minister said in conclusion, to add to his remarks.

Dekanosov replied that he had asked for an interview with the Reich Foreign Minister because, in the name of the Soviet Government, he wanted to pose a few questions that, in his opinion, required clarification.

The Reich Foreign Minister thereupon replied that he had nothing to add to what he had already stated. He had hoped that the two countries would contrive a sensible relationship with each other. He had been deceived in this great hope for reasons that were explained in detail in the memorandum just delivered. The hostile policy of the Soviet Government toward Germany, which had reached its climax in the conclusion of a pact with Yugoslavia* at the very time of the German-Yugoslav conflict, had been evident for a year. At a moment when Germany was engaged in a life-and-death struggle, the attitude of Soviet Russia, particularly the concentration of the Russian military forces at the Soviet border, had presented so serious a threat to the Reich

* The U.S.S.R. and Yugoslavia concluded a nonaggression and friendship pact on 5 April 1941, one day before Germany invaded Yugoslavia and Greece.

that the Fuehrer had to decide to take military countermeasures. The policy of compromise between the two countries had therefore been unsuccessful. This was, however, by no means the fault of the Reich government, which had carried out the German-Russian treaty in detail, but was attributable rather to a hostile attitude of Soviet Russia toward Germany, that had existed for some time. Under the pressure of a serious threat of a political and military nature which was emanating from Soviet Russia, Germany had since this morning taken the appropriate countermeasures in the military sphere. The Reich Foreign Minister regretted not to be able to add anything to these remarks, especially since he himself had had to conclude that, in spite of earnest efforts, he had not succeeded in creating sensible relations between the two countries.

Dekanosov replied briefly that, for his part too, he exceedingly regretted this development, which was based on a completely erroneous conception on the part of the German Government and, in view of this situation, he had nothing further to say except that the status of the Russian Embassy would now be arranged with the competent German authorities.

He thereupon took leave of the Reich Foreign Minister.

(Minister Schmidt)

Berlin, 22 June 1941

PARTIAL TRANSLATION OF DOCUMENT NI–7474*
PROSECUTION EXHIBIT 582

EXTRACT FROM THE OFFICIAL REPORT OF THE ELEVENTH MEETING OF THE GENERAL COUNCIL OF THE FOUR YEAR PLAN UNDER THE CHAIRMANSHIP OF DEFENDANT KOERNER, 24 JUNE 1941, CONCERNING THE WORK OF THE ECONOMIC EXECUTIVE STAFF EAST

Copy

The Reich Marshal of Greater Germany
Plenipotentiary for the Four Year Plan

37 copies, 10th copy
7 copies of the copy, 1st copy of the copy

V.P. 10103/1 top secret

Top Secret

Eleventh meeting of the General Council held on 24 June 1941 under the chairmanship of Secretary Koerner

Present:

State Secretaries:
Neumann
Dr. Stuckart
Backe
Dr. Landfried
Dr. Syrup
Kleinmann

Under Secretaries:
von Hanneken
von Jagwitz

Lt. General (Infantry), Thomas
Reich Cabinet Counsellor, Dr. Willuhn
Professor, Dr. Krauch
For Reich Minister Dr. Todt: Ministerial Director Schulze-Fielitz.
For Reich Commissioner Wagner: Ministerial Director Flottmann.
For State Secretary Reinhardt: Ministerialdirigent Nasse.
For State Secretary Alpers: Ministerial Director Parchmann.
For the Party Chancellery: Ministerial Counsellor Baermann.

I. State Secretary Koerner opened the meeting and stated that owing to preparations for the case of war with Russia [Eventual-

* Document NI–7474 contained the reports of several meetings of the General Council in addition to the meeting of 24 June 1941. Extracts from the record of the meeting on 31 January 1940 are reproduced in volume XIII, section XI B (Slave Labor).

fall "Russland"], the convocation of the General Council had to be omitted until now. Since fighting in Russia has now started, he was able to make the following statements about the work which has been done within the Economic Executive Staff East [Wirtschaftsfuehrungsstab Ost][1]:

The entire economic command in the newly Occupied Eastern Territories is in the hands of the Reich Marshal as Plenipotentiary for the Four Year Plan. The Reich Marshal is to make use of the services of the Economic Executive Staff East which consists of the representatives of the leading departments. The measures are to be carried out by the Economic Staff East under the leadership of Major General Schubert, who is supported for the industrial sector by Ministerialdirigent Dr. Schlotterer and for the agricultural sector by Ministerialdirector Riecke.

The economic command in the newly occupied territories should direct its activities to extracting the maximum quantities of goods required for the war effort, particularly steel, mineral oil, and food. All other points of view should take second place.

The necessary organization is in existence and will be utilized in accordance with the progress of the military operations.[2]

* * * * * * *

Signed: BERGBOHM

Distribution: pp.

PARTIAL TRANSLATION OF DOCUMENT 1039-PS PROSECUTION EXHIBIT 367

EXTRACTS FROM ROSENBERG'S REPORT OF 28 JUNE 1941, CONCERNING PREPARATIONS FOR THE GERMAN OCCUPATION OF RUSSIA[3]

[Handwritten] 28 June 1941

Report on Preparatory Work concerning Eastern European Questions

Immediately after the notification of individual Supreme Reich Offices concerning the Fuehrer's Decree of 20 April 1941,[4] a conference with the Chief of the High Command of the Armed Forces took place. After presentation of the various political aims in the proposed Reich Commissioners and presentation of

[1] This term was also sometimes translated as "Economic Leadership Staff East" or "Economic Operational Staff East."

[2] Evidence concerning the economic exploitation of occupied Russia after the invasion of 22 June 1941 is reproduced in volume XIII, section X E 1 (Plunder and Spoliation).

[3] This document was introduced in the IMT trial as Exhibit USA-146 and the full German text appears in Trial of the Major War Criminals, *op. cit.*, volume XXVI, pages 584-592.

[4] Document NG-2871, Prosecution Exhibit 525, reproduced earlier in this section.

personnel requirements for the East, the Chief of the OKW explained that occupational deferment would be too complicated in this case and that this matter could be carried out best by direct attachment on orders of the Chief of the High Command of the Armed Forces. Field Marshal Keitel then issued an appropriate command which established the basis for the coming requirements. He named as deputy and liaison officer General *Jodl* and Brigadier General *Warlimont*. The negotiations which then commenced relative to all questions of the eastern territory were carried on by the gentlemen of the High Command of the Armed Forces in collaboration with officials of my office. A conference took place with Admiral Canaris to the effect that under the given confidential circumstances my office could in no way deal with any representatives of the people of the east European area. I asked him to do this insofar as the military intelligence required it and then to name persons to me who could count as political personalities over and above the military intelligence in order to arrange for their eventual commitment later. Admiral Canaris said that naturally also my wish not to recognize any political groups among the emigrants would be considered by him and that he was planning to proceed in accordance with my directives.

Later on I informed Field Marshal von Brauchitsch and Admiral of the Fleet Raeder about the historical and political conceptions of the Eastern problem. In further conferences we agreed to appoint a representative of my office to the Commander in Chief of the Army, respectively to the Chief of Supply and Administration and to the army groups for questions relative to political configuration and requests of the High Command of the Armed Forces. In the meantime this has been done.

Already at the outset there was a discussion with Minister of Economics Funk, who appointed as his permanent deputy Ministerialdirektor Dr. Schlotterer. Almost daily conferences were then held with Dr. Schlotterer with reference to the war economic plans of the Economic Executive Staff East. In this connection I had conferences with General Thomas, State Secretary Koerner, State Secretary Backe, Ministerialdirektor Riecke, General Schubert, and others. Far-reaching agreement was reached in the Eastern questions as regards direct technical work now and in the future. A few problems regarding the relationship of the proposed Reich Ministry toward the Four Year Plan are still open and will be subject, after submission, to a decision of the Fuehrer. In principle I declared that I in no way intended to found an economic department in my office; economics would rather be handled substantially and practically by the

Reich Marshal and the persons appointed by him. However, the two responsible department heads, namely Ministerialdirektor Dr. Schlotterer for industrial economy and Ministerialdirektor Riecke for food economy, would be placed in my office as permanent liaison men to coordinate here political aims with the economic necessities in a department which would have to unite yet other persons for such coordinating work depending on the needs arising out of the work later on (political leadership of labor unions, construction, etc.). After notification to the Reich Foreign Minister, the latter appointed Privy Councillor Grosskopf as permanent liaison man to my office. For the requested representation in the political department of my office (headed by Reichsamtsleiter Dr. Leibbrandt), the Foreign Office released Consul General Dr. Braeutigam, who is known to me for many years, speaks Russian, and worked for years in Russia. Negotiations which, if necessary, will be placed before the Fuehrer are underway with the Foreign Office regarding its wishes for the assignment of its representatives to the future Reich Commissioners.

The Propaganda Ministry appointed State Secretary Gutterer as permanent liaison man and a complete agreement was reached to the effect that the decisions on all political and other essays, speeches, proclamations, etc., would be made in my office; a great number of substantial works for propaganda would be delivered and the papers prepared by the Propaganda Ministry would be modified here if necessary. The whole practical employment of propaganda will undisputedly be subject to the Reich Ministry of Public Enlightenment and Propaganda. For the sake of closer cooperation, the Propaganda Ministry assigns yet another person directly to my department, Enlightenment and Press, and in addition appoints a permanent press liaison man. All these activities have been going on for some time; and without attracting attention to my office in any way, this agreement on contents and terminology has taken place continually every day.

* * * * * * *

The work for substantial coverage of the Eastern question, prepared long ago in my office, was turned over to the propaganda deputies. I enclose a few samples thereof.* These pamphlets, which may later be turned over to the press for development, deal with the whole structure and organization of the U.S.S.R. the economic possibilities of the East, agriculture, the people of the Soviet Union, the work of the Komintern since 1889, the Jews in the Soviet Union since 1933, statistical results

* None of the enclosures were part of the document offered in evidence.

of the poll taken among the Germans in Russia, the history of the Ukraine, of the Caucasus, of Turkestan. Extensive work is in preparation for the future foundation of legal administration —German law in the Ukraine, German art in the Ukraine, influence of the German language on the Ukrainian language, the Ukrainians from the viewpoint of the Germans. In addition a number of articles are being prepared in Russian language which have the purpose of enlightening the people of the Soviet Union about true conditions in Germany. These articles are also suitable as the basis for newspaper articles in the newly occupied territories. Finally, after extensive work, *an ethnological map of the East based on the most recent statistical reports has been printed in great numbers and made available to all offices.* This map can be used as the basis of eventual fixing of boundaries in the north as well as in the south, and offers points of departure for fixing the boundaries of the future Reich Commissioners.

As a result of these conferences, conducted for the most part by myself, continuous consultation and organizational preparation is under way through my office and through those of the liaison men delegated from the other offices of the Party and the state.

I may say that all the work, inasmuch as it is at all possible under present conditions, is in full swing. Aside from the Commissioners General and Chief Commissioners more than 900 Regional Commissioners are planned, which must all be manned by political leaders, representatives of the department and officials of the Reich Ministry of the Interior. The work in the East differs basically from the conditions in the West. Whereas we can count on every technical installation and a cultured population here in the big cities, that is not the case in the East. There literally everything will have to be prepared and taken along additionally for the gigantic spaces, not only a fleet of motor vehicles but a great number of typewriters, office material, above all medical supplies and much more down to the bed sheets. It does not appear possible to accomplish such a project suddenly in 14 days. Therefore all these arrangements had to be set in full motion already now on my responsibility on the basis of the Fuehrer's decree.

The structure of my office itself is temporarily organized as follows in carrying out the Fuehrer's order. I have requested Gauleiter [of North Westphalia] and Reich Governor Dr. Meyer as my permanent deputy. He has negotiated personally and thoroughly, through the whole time with all pertinent offices, in order to develop all aspects down to the details. A political department has been founded for the execution of the substantial

work, under my coworker of many years Dr. Leibbrandt (deputy, Consul General Dr. Braeutigam), who prepared the various books and pamphlets for information. A great number of propaganda leaflets have been composed by him which will then have to be scattered over the Russian front in huge numbers by the armed forces. Also for a specific time other leaflets are ready which are addressed directly to the individual races. I do not care to decide on this date for myself and will lay these originals before the Fuehrer at the first opportunity with the request to check the contents and determine the time of the eventually approved appeals. The political department is also undertaking a thorough investigation of all those, with the exception of Russians, who eventually can be used as advisers for the administration of the various nationalities. Continuous discussions about this subject are underway with representatives of the High Command of the Armed Forces, the Propaganda Ministry, etc. Secondly a department of economic-political cooperation has been founded under direction of Oberbereichsleiter Malletke. A department of "Law, Finance, and Administration" has been taken over by Regierungpraesident Runte. A department for Culture and Science is as yet unoccupied since the development of this question does not appear urgent, also the department "Enlightenment and Press." It is occupied by Major (Air Force) Carl Cranz, deputy Job Zimmermann. Integrated here are coworkers who command the Russian, Ukrainian, and other languages. The wishes of the Reich Press Chief [Defendant Dietrich] for setting up one press chief for each Reich Commissioner are under discussion in order to decide them in that sense if possible.

Thus I hope that when after preliminary conclusion of the military action the Fuehrer has the opportunity for a report from me, I shall be able to report to the Fuehrer far-reaching preparations, up to those points of special and personal nature which the Fuehrer alone can decide.

PARTIAL TRANSLATION OF DOCUMENT NI–6366
PROSECUTION EXHIBIT 1054

EXTRACTS FROM GOERING'S DIRECTIVES ON THE ORGANIZATION OF THE ECONOMIC EXECUTIVE STAFF EAST, JULY 1941, PROVIDING FOR THE DIRECTION OF THIS STAFF BY DEFENDANT KOERNER IN GOERING'S ABSENCE AND OTHER ORGANIZATIONAL MATTERS

The Reich Marshal of the Greater German Reich

2000 copies

For Official Use Only

Directives for the Operation of the Economy in the Newly Occupied Eastern Territories (Green Folder)*

Part I (2d edition) Functions and Organization of the Economy

Berlin, July 1941

* * * * * * *

THE ECONOMIC ORGANIZATION

A. In General

For the uniform direction of the economic administration in the areas of operations and in the areas of the future political administration, the Reich Marshal has created the *"Economic Executive Staff East"* which is responsible directly to him and which, in the absence of the Reich Marshal, is directed by State Secretary Koerner. The Chief of the Military Economic and Armament Office [Wehrwirtschafts und Ruestungsamts] Lieutenant General (Infantry) Thomas, in his capacity as a member of the Economic Executive Staff East, acts as a representative of the military interests during the preparation and execution of the military operations.

The order of the Reich Marshal covers all economic fields, including nutrition and agriculture. They are to be executed by the subordinate economic offices (see under *B.*) The orders of the "Economic Executive Staff East" are transmitted for execution by the Chief of the Economic Armament Office [Wi Rue Amt-Wirtschaft-Ruestungs-Amt] to the *"Economic Staff East"* [*Wirtschaftsstab Ost*] which is proceeding into the occupied territory and which, during operations, is located in the immediate vicinity of the High Command of the Army; Chief of Supply and Administration.

* The "Green Folder," as Goering's directives for the economic organization in occupied Russia was frequently called, is a very long document containing numerous separate though related items. Additional extracts from the "Green Folder" were introduced in the IMT trial as Document EC–472, Exhibit USA–315 and the German text of these materials appears in Trial of the Major War Criminals, *op. cit.*, volume XXXVI, pages 542–545.

B. Economic Organization in the Area of Operations

* * * * * * *

IV. *The particulars of the organization of the economic offices.*

1. *Economic Staff East*—The Economic Staff East, as the advance command office of the Economic Executive Staff East, is located in the immediate vicinity of the High Command of the Army, Chief of Supply and Administration. It has the function of representing, at the High Command of the Army, Chief of Supply and Administration, the commands directed to it by the Reich Marshal via the Economic Executive Staff East and the Chief Economic Armament Office; and it has the function of securing their execution through the channels stated supra under *B* III.

The Economic Staff East is subdivided into—Chief of the Economic Staff, together with the headquarters group (function—questions of leadership; in addition, assignment of work).

Group La (functions: food and agriculture, the control of all agricultural products, provision of supplies for the army, in cooperation with the army offices concerned).

Group W (functions—industrial economy, including raw materials and consumer goods, forestry, finance and banking, enemy property, trade and commodity transactions. The special staff of the Plenipotentiary for Motor Transportation is a member of Group *W*).

Group M (functions—needs of the army, armament industry, freight transportation).

PARTIAL TRANSLATION OF DOCUMENT 2353-PS PROSECUTION EXHIBIT 1049

EXTRACTS FROM THE MANUSCRIPT OF GENERAL GEORG THOMAS, CHIEF OF THE MILITARY ECONOMICS AND ARMAMENT OFFICE OF THE HIGH COMMAND OF THE ARMED FORCES, ENTITLED "BASIC FACTS FOR A HISTORY OF THE GERMAN WAR AND ARMAMENTS ECONOMY"*

* * * * * * *

Military Economy

The war year 1941 was highlighted from the viewpoint of military economy under the sign of preparation, respectively, the execution of the Balkan action, the war in the East, and the war in Africa.

* * * * * * *

In November 1940, the Chief of the Military Economics and Armament Office [General Thomas] together with State Secretaries Koerner, Neumann, Backe, and General von Hanneken were informed by the Reich Marshal of the action planned in the East.

By reason of these directives the preliminary preparations for the campaign in the East were commenced by the Military Economics and Armament Office at the end of 1940.

The preliminary preparations for the action in the East included first of all the following tasks:

1. Obtaining a detailed survey of the Russian armament industry, its location, its capacity and its associate industries.

2. Investigation of the capacity of the different big armament centers and their dependency one on the other.

3. Determine the power and transport system for the industry of the Soviet Union.

4. Investigation of sources of raw materials and petroleum.

5. Preparation of a survey of industries other than armament industries in the Soviet Union.

These points were concentrated in one big compilation "War Economy of the Soviet Union" and illustrated with detailed maps, etc.

Furthermore a card index was made, containing all the important factories in Soviet Russia and an economic encyclopedia in the German-Russian language for the use of the German military economics organization.

* Extracts from the Thomas manuscript were also introduced in evidence in the I. G. Farben case as Document 2353-PS, Prosecution Exhibit 443, and are reproduced in the volumes of this series devoted to the I. G. Farben case (vols. VII and VIII). Parts of the German text of Thomas' manuscript appear in Trial of the Major War Criminals, *op. cit.*, volume XXX, pages 259-280.

For the processing of these problems a Working Staff Russia was created, first in charge of Lieutenant Colonel Luther and later on in charge of Brigadier General Schubert. The work was carried out according to the directives from the chief of the office, respectively the office group of Department for Foreign countries of the Military Economics and Armament Office with the cooperation of all departments, economy offices and any other persons possessing information on Russia. Through these intensive preparative activities an excellent collection of material was made, which proved of the utmost value later on for carrying out the operations and for administering the territories.

* * * * * * *

TRANSLATION OF DOCUMENT L–221
PROSECUTION EXHIBIT 527

MARTIN BORMANN'S MEMORANDUM OF A CONFERENCE OF HITLER, ROSENBERG, THE DEFENDANT LAMMERS, KEITEL, GOERING AND BORMANN ON 16 JULY 1941, CONCERNING THE ORGANIZATION AND ADMINISTRATION OF GERMAN OCCUPIED TERRITORY IN THE EAST[1]

[Illegible handwriting]

Fuehrer Headquarters, 16 July 1941
Bo[2] Fu

Top Secret

Memorandum for the Files [Handwritten] 17 July 1941

By order of the Fuehrer, the Fuehrer held today, at 1500 hours, a conference attended by Reichsleiter Rosenberg, Reich Minister Lammers, Field Marshal Keitel, the Reich Marshal, and myself. The conference began at 1500 hours and, including a break for coffee, lasted until about 2000 hours.

By way of introduction, the Fuehrer pointed out he desired first of all to make some fundamental statements. Several measures had to be taken without delay; this proved, among other events, an assertion made in an impudent Vichy newspaper that the war against the Soviet Union was a war waged by Europe and that, therefore, it had to be conducted for the benefit of Europe as a whole. Obviously the Vichy paper meant to say by these hints that it ought not to be the Germans alone who benefited from this war but that all European states ought to profit by it.

[1] This document was introduced in the IMT trial as Exhibit USA–317. The full German text appears in Trial of the Major War Criminals, *op. cit.*, volume XXXVIII, pages 86–94.

[2] The dictation symbol of Bormann.

Now it was essential that we did not publicize our aims before the world; also there was no need for that, but the main thing was that we ourselves knew what we wanted. By no means should we render our task more difficult by making superfluous declarations. Such declarations were superfluous because we could do everything wherever we had the power and what was beyond our power we would not be able to do anyway.

What we told the world about the motives for our measures ought to be conditioned, therefore, by tactical reasons. We ought to act here in exactly the same way as we did in the cases of Norway, Denmark, Holland, and Belgium. In these cases, too, we did not publish our aim, and it was only sensible to continue in the same way.

Therefore we shall emphasize again that we were forced to occupy, administer, and secure a certain area; it was in the interest of the inhabitants that we provided order, food, transportation, etc., hence our measures. Nobody shall be able to recognize that it initiates a final settlement [endgueltige Regelung]. This need not prevent us from taking all necessary measures—shooting [Erschiessen], deportation [Aussiedeln], etc.—and we shall take them.

But we do not want to make any people into enemies prematurely and unnecessarily. Therefore we shall act as though we wanted to exercise a mandate only. At the same time *we* must know clearly that we shall never leave those countries.

Our conduct therefore ought to be—

(1) To do nothing which might obstruct the final settlement but to prepare for it only in secret.

(2) To emphasize that we are liberators.

In particular—the Crimea has to be evacuated by all foreigners and to be settled by Germans only.

In the same way the former Austrian part of Galicia will become Reich territory. Our present relations with Rumania are good but nobody knows what they will be at any future time. This we have to consider and we have to draw our frontiers accordingly. One ought not to be dependent on the good will of other people; we have to plan our relations with Rumania in accordance with this principle.

On principle we have now to face the task of cutting up the giant cake according to our needs, in order to be able—first, to dominate it, second, to administer it, and third, to exploit it.

The Russians have now ordered partisan warfare behind our front. This partisan war again has some advantage for us; it enables us to exterminate [ausrotten] everyone who opposes us.

Principles—Never again must it be possible to create a military power west of the Urals, even if we have to wage war for 100

years in order to attain this goal. Every successor of the Fuehrer should know—security for the Reich exists only if there are no foreign military forces west of the Urals; it is Germany who undertakes the protection of this area against all possible dangers. Our iron principle is and has to remain.

We must never permit anybody but the Germans to carry arms. This is especially important; even when it seems easier at first to enlist the armed support of foreign subjugated nations, it is wrong to do so. In the end this will prove to be to our disadvantage unconditionally and unavoidably. Only the Germans may carry arms, not the Slav, not the Czech, not the Cossack, or the Ukrainian.

On no account should we apply a wavering policy such as was done in Alsace before 1918. What distinguishes the Englishman is that he pursues constantly *one* line and *one* aim. In this respect surely we have to learn from the Englishman. Therefore we ought never to base our actions on single contemporary personalities. Here again the conduct of the British in India towards the Indian princes, etc., ought to be an example. It is always the soldier who has to consolidate the regime.

We have to create a Garden of Eden in the newly occupied eastern territories; they are vitally important to us; as compared with them colonies play only an entirely subordinate part.

Even if we divide up certain areas at once, we shall always proceed in the role of protectors of the right and of the people. The terms which are necessary at this time should be selected in accordance with this principle; we shall not speak of new Reich territory only, but of the task which became necessary because of the war.

In particular—In the Baltic territory the country up to the Dvina now will have to be administered in agreement with Field Marshal Keitel. Reich Leader Rosenberg emphasizes that, in his opinion, a different treatment of the population is desirable in every Commissariat. In the Ukraine we should start with a cultural administration, there we ought to awake the historical consciousness of the Ukrainians, establish a university at Kiev, and the like.

The Reich Marshal makes the counterstatement that we had to think first of securing our food situation, everything else could come later.

(Incidentally—Is there still anything like an educated class in the Ukraine or are upper class Ukrainians rather to be found only as emigrants outside present day Russia.)

Rosenberg continues, there were certain independence movements in the Ukraine which deserved furtherance.

The Reich Marshal asks the Fuehrer to indicate what areas had been promised to other states.

The Fuehrer replies, Antonescu desired Bessarabia and Odessa with a strip of land leading west-northwest from Odessa.

Upon objections made by the Reich Marshal and Rosenberg, the Fuehrer replies that the new frontiers desired by Antonescu contained little outside the old Rumanian frontiers.

The Fuehrer states furthermore that nothing definite had been promised to the Hungarians, Turks, and Slovaks. Then the Fuehrer submits for consideration whether the former Austrian part of Galicia ought to be added at once to the Government General.* Upon objections having been voiced, the Fuehrer decides that this part shall not be added to the government but should be subordinated likewise to Reich Minister Frank (Lvov).

The Reich Marshal thinks it right to incorporate into East Prussia several parts of the Baltic countries, that is, the Forest of Bialystok. The Fuehrer emphasizes that the entire Baltic countries will have to be incorporated into Germany. At the same time the Crimea, including a considerable hinterland (situated north of the Crimea) should become Reich territory; the hinterland should be as large as possible.

Rosenberg objects to this because of the Ukrainians living there.

(Incidentally: It occurred to me several times that Rosenberg has a soft spot for the Ukrainians; thus he desires to aggrandize the former Ukraine to a considerable extent.)

The Fuehrer emphasizes furthermore that the Volga Colony, too, will have to become Reich territory, also the district around Baku; the latter will have to become a German concession (Military Colony) [Militaer-Kolonie]. The Finns wanted East Carelia but the Kola Peninsula will be taken by Germany because of the large nickel mines there.

The annexation [Angliederung] of Finland as a federated state should be prepared with caution. The area around Leningrad is wanted by the Finns; the Fuehrer will raze Leningrad to the ground and then hand it over to the Finns. There ensues a rather long discussion as to the qualifications of Gauleiter *Lohse,* who has been proposed by Rosenberg as Governor of the Baltic area. Rosenberg reiterates that having approached Lohse already he would be in a difficult situation in case Lohse were not appointed; for the western part of the Baltic Country *Kube* was to be appointed, but subordinated to Lohse; for the Ukraine Rosenberg proposes *Sauckel.*

The Reich Marshal, however, emphasized the most important points of view on which we ought to base those appointments—

* That part of German occupied Poland which had not been annexed for purposes of administration to the German Reich proper.

Securing of food supplies and, as far as necessary, of industry; securing of communications, etc.

The Reich Marshal emphasizes, either Koch should be appointed for the Baltic country because he knew this country very well or Koch should receive the Ukraine because Koch was the person with the greatest initiative and with the best education.

The Fuehrer asked whether Kube could not be appointed as Commissioner for the district of Moscow; Rosenberg and the Reich Marshal both think that Kube was too old for this position.

Upon further representations Rosenberg replied he was afraid that Koch might soon refuse to obey his [Rosenberg's] instructions; by the way Koch had predicted such conduct on his part.

The Reich Marshal replied it was indeed not desirable that Rosenberg guide every step of the appointees, rather these people had the duty of working quite independently.

For the Caucasus area Rosenberg proposed his Chief of Staff *Schickedanz*;[1] he reiterated that Schickedanz certainly would fulfil his task very well, a statement which is doubted by the Reich Marshal.

Rosenberg then stated Lutze[2] had proposed to him to appoint several SA leaders; namely, Scheppmann for Kiev; Manthey, Dr. Bennecke, Litzmann for Estonia; and Burgomaster Dr. Drexler for Latvia. The Fuehrer has no objections to the use of SA Leaders.

Rosenberg then states he had received a letter from Ribbentrop who desired the participation of the Foreign Office[3] but he asked the Fuehrer to determine that the internal formation of the newly acquired area was no concern of the Foreign Office. The Fuehrer agrees with this conception. Until further notice it will be sufficient for the Foreign Office to appoint a liaison officer to Reich Leader Rosenberg.

The Fuehrer emphasizes that the Ukraine would undoubtedly be the most important district for the next 3 years. Therefore it would be best to appoint *Koch* there; if Sauckel were to be used, then it would be better to appoint him for the Baltic area.

Rosenberg continues, he intended to appoint *Schmeer,* Selzner, and Manderbach as Commissioners for the Moscow area. The Fuehrer desires that Holz be used too, and that the former Gauleiter *Frauenfeld* should be placed in charge of administering the Crimea.

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[1] Schickedanz, a leading official in Rosenberg's Foreign Political Office of the Nazi Party, was the author of the memorandum, "Plan for the East," dated 15 June 1939, Document 1365–PS, Prosecution Exhibit 487, reproduced earlier in section VI E (Poland).

[2] Viktor Lutze succeeded Ernst Roehm as Chief of Staff of the SA in 1934 after Roehm was executed in connection with the so-called Roehm Affair.

[3] See von Ribbentrop's letter of 19 June 1941, reproduced earlier in this section as a part of Document NG–1691, Prosecution Exhibit 542.

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Rosenberg states he intended to use also Captain von Petersdorff, owing to his special merits; general consternation, general rejection. The Fuehrer and the Reich Marshal both emphasize there was no doubt that von Petersdorff was insane.

Rosenberg states furthermore that the appointment of the burgomaster of Stuttgart, Stroelin has been proposed to him. There were no objections. Since Kube is considered too old for the Moscow district by both the Reich Marshal and Rosenberg, Kasche is to take over this district.

(Memo for Party Member Klopfer:* Please ask Dr. Meyer *at once* for the files concerning the plans for the future organization and the intended appointments.)

The Reich Marshal emphasizes he intended to appoint Gauleiter Terboven for the exploitation of the Kola Peninsula; the Fuehrer agrees. The Fuehrer emphasizes that Lohse, provided he thinks himself equal to this task, should take over the Baltic area, Kasche, Moscow, Koch the Ukraine, Frauenfeld the Crimea, Terboven, Kola, and Schickedanz the Caucasus.

Reich Leader Rosenberg then broached the question of securing the administration of the eastern areas.

The Fuehrer tells the Reich Marshal and the Field Marshal he had always urged that police regiments should be provided with armored cars; this has proved to be quite necessary for police operations within the newly occupied eastern territories because a police regiment equipped with the appropriate number of armored cars of course could perform many services. Otherwise though, the Fuehrer pointed out the protection was very slight. However, the Reich Marshal was going to transfer all his training fields to the new territories and if necessary even Junkers 52 could throw bombs in case of riots. Naturally this giant area would have to be pacified as quickly as possible; the best solution was to shoot anybody who looked sideways.

Field Marshal Keitel emphasizes the inhabitants themselves ought to be made responsible for their things because it was of course impossible to put a sentry in front of every shed or railway station. The inhabitants had to understand that anybody who did not perform their duties properly would be shot and that they would be held responsible for each offense.

Upon a question of Reich Leader Rosenberg the Fuehrer replied newspapers also, for example for the Ukraine, would have to be reestablished in order to obtain means of influencing the inhabitants.

* Reference is apparently to Dr. Gerhard Klopfer, an official in the Party Chancellery since 1935; later became State Secretary in the Party Chancellery and Chief of its Constitutional Law Department. Klopfer appeared as a witness in this case (*tr. pp. 19488–19498, 24818–24821*).

After the interval the Fuehrer emphasized we had to understand that the Europe of today was nothing but a geographical term, in reality Asia extended up to our previous frontiers.

Reich Leader Rosenberg then described the organization arrangement he intended to establish; he did not intend to appoint a permanent deputy of the Reich Commissioner ahead of time but always the most efficient of the Commissioners General would be called upon to deputize for Reich Commissioner.

Rosenberg will set up four departments in the office of the Reich Commissioner—first for the general administration, second for politics, third for economics, fourth for engineering and architecture.

(Incidentally: The Fuehrer emphasizes that activities on the part of the churches are out of the question. Papen had sent him through the Foreign Office a long memorandum in which it was asserted now was the right moment to reintroduce the churches; but this was *completely* out of the question.)

The Reich Marshal will detail to the Rosenberg Office Ministerialdirecktoren Schlotterer and Riecke.

Reich Leader Rosenberg applies for appropriate premises to house his administration; he applies for the premises of the Commercial Mission of the Soviet Union in Lietzenburger Street; the Foreign Office, though, was of the opinion that these premises were extraterritorial. The Fuehrer replies that this was nonsense; Reich Minister Lammers was charged to inform the Foreign Office they were to hand over these premises to Rosenberg at once and without any negotiations.

Rosenberg then proposes to detail a liaison officer to the Fuehrer; his adjutant Koeppen was to be appointed; the Fuehrer agrees and adds that Koeppen would become the opposite number to Hewel.

Reich Minister Dr. Lammers reads the drafts prepared by him (see enclosure).*

A longer discussion takes place concerning the jurisdiction of Reich Leader SS; obviously at the same time the participants have in mind the jurisdiction of the Reich Marshal.

The Fuehrer, the Reich Marshal and others reiterate that Himmler was to have no greater jurisdiction than he had in Germany proper; but this much was absolutely necessary.

The Fuehrer repeats emphatically this quarrel would soon subside in practice; he recalls the excellent collaboration between army and air force at the front.

In conclusion it is decided to call the Baltic area "Ostland."

Enclosures

* None of the enclosures to this document were a part of Document L–221 as registered in the Central Document Room or as introduced in evidence.

TRANSLATION OF DOCUMENT NG–1280
PROSECUTION EXHIBIT 529

LETTER FROM DEFENDANT LAMMERS TO ROSENBERG, 18 JULY 1941, TRANSMITTING FOUR FUEHRER DECREES AND NOTING THAT THE DECREES ARE NOT TO BE PUBLISHED

Copy

The Reich Minister and Chief of the Reich Chancellery
RK. 10714 B

Berlin W 8, 18 July 1941
Vosstrasse 6
at present Fuehrer Headquarters

To the Reich Minister for the Occupied Eastern Territories Mr. Alfred Rosenberg
Berlin W 35, Rauchstr. 17–18

Dear Party Member Rosenberg!

I am enclosing herewith the certified copies of the decrees the Fuehrer signed yesterday* which concern the newly occupied eastern territories.

As you know, the decrees are not to be published. I shall issue a release to the press which will give information on the essential contents of the decrees and which will tell of your appointment as Reich Minister for the Occupied Eastern Territories as well as the assignment of your permanent deputy and of the Reich Commissioner for Ostland. These facts will also be brought to the attention of the Supreme Reich Offices.

Heil Hitler!
Yours very truly,
Signed: DR. LAMMERS

[Handwritten] To be filed

Copy and enclosures submitted to the Reich Minister.
BY ORDER:
[Illegible initial]

Decree of the Fuehrer on the Appointment of Armed Forces Commanders in the Newly Occupied Eastern Territories

I. In the newly Occupied Eastern Territories armed forces commanders as highest representatives of the armed forces, carry out the military sovereign rights and territorial rights of command.

* Two of the decrees are dated on their face earlier than "yesterday," 17 July 1941.

The armed forces commanders are appointed by me. They are subordinate to the Chief of the High Command of the Armed Forces, and from him they receive their instructions according to my general directions.

II. It is the task of the armed forces commanders to safeguard the military security of the territory internally and against surprise attacks from outside.

They will assist the Reich Commissioners in their political and administrative tasks, and in contact with them, they represent uniformly the claims of the armed forces and especially as concerns the utilizations of the country for the supply of the combat troops.

III. The claims of the armed forces will be realized in the civil sphere by the Reich Commissioners.

If danger is threatening, the armed forces commanders are entitled to order measures which are necessary for the carrying out of the military tasks to be taken in the civil sphere as well.

The armed forces commanders can transfer this right temporarily to local commanders.

The directives issued by offices of the armed forces on account of those powers have priority over all other directives.

IV. For the carrying out and supplementing of this decree, the Chief of the High Command of the Armed Forces will issue an official directive for the armed forces commanders.

Fuehrer Headquarters, 25 June 1941

Signed: ADOLF HITLER

Decree of the Fuehrer on the Economy in the Newly Occupied Eastern Territories Dated 29 June 1941

(1) In the newly Occupied Eastern Territories Reich Marshal Hermann Goering as Plenipotentiary for the Four Year Plan and within his competency as such will order all measures which will serve towards the highest possible utilization of the supplies found and of the economic capacities and for the development of the economic capacities for the benefit of the German war industry.

(2) For this purpose he can also give direct instructions to the offices of the armed forces in the Occupied Eastern Territories.

(3) This decree becomes valid as of today. It is only to be published on special order.

(L. S.)

Fuehrer Headquarters, 29 June 1941

The Fuehrer

Signed: ADOLF HITLER

9887640—51——84

The Chief of the High Command of the Armed Forces
Signed: KEITEL

The Reich Minister and Chief of the Reich Chancellery
Signed: DR. LAMMERS

Copy

Decree of the Fuehrer concerning the Administration of the newly Occupied Eastern Territories, dated 17 July 1941.

In order to reinstate and to uphold public order and public life in the newly Occupied Eastern Territories, I order:

Section 1

As soon and insofar as the military combat actions have ended in the newly Occupied Eastern Territories, the administration of these territories will be transferred from the military authorities to the officers of the civil administration. The territories which according to this will be transferred to the civil administration and the time at which this will be effected, I shall fixe each time by special decree.

Section 2

The civil administration of the newly Occupied Eastern Territories, insofar as these territories will not be taken into the administration of the adjoining territories of the Reich or the Government General, will be subordinate to the "Reich Minister of the Occupied Eastern Territories."

Section 3

The military sovereign rights and powers will be carried out in the newly occupied territories by the armed forces commanders in accordance with my decree dated 25 June 1941.

The authority of the Plenipotentiary for the Four Year Plan in the newly occupied territories is regulated by my decree dated 29 June 1941 and that of the Reich Leader SS and Chief of the German Police by my decree dated 17 July 1941 is regulated separately and will not be affected by the following ordinances.

Section 4

As Reich Minister for the Occupied Eastern Territories I appoint Reichsleiter Alfred Rosenberg. He will have his official residence in Berlin.

Section 5

The parts of the newly occupied territories subordinate to the Reich Minister for the Occupied Eastern Territories will be

divided into Reich Commissariats, these into general districts, and these will again be subdivided into Kreis areas. Several Kreis areas can be united into one main district. The immediate ordinances in this respect will be issued by the Reich Minister for the Occupied Eastern Territories.

Section 6

The chief of each Reich Commissariat is a Reich Commissioner, of each Commissariat General a Commissioner General, of each Kreis area an Area Commissioner. If a main district is formed, its head will be a District Commissioner.

I appoint the Reich Commissioners and the Commissioners General, the Reich Minister for the Occupied Eastern Territories appoints the chiefs of the main departments in the offices of the Reich Commissioners as well as the District Commissioners and the Area Commissioners.

Section 7

The Reich Commissioners are subordinate to the Reich Minister for the Occupied Eastern Territories and receive their instructions exclusively from him if section 3 is not applicable.

Section 8

It is the task of the Reich Minister for the Occupied Eastern Territories to draw up the legislation for the newly occupied territories subordinate to him. He can transfer to the Reich Commissioners the competency to draw up the legislation.

Section 9

The Reich Commissioners have complete powers in their districts with regard to civil administration.

According to the directives of the Chief of the High Command of the Armed Forces, the competent Supreme Reich Authorities are responsible for the safeguarding of the functioning of the railroads and of the postal service, as long as military operations take place. Other regulations will be set up for the time when the military operations will have ceased.

Section 10

In order to bring into agreement the superior viewpoints of the Reich interests with the measures which the Reich Minister for the Occupied Eastern Territories or the Reich Commissioners have ordered for their territories, the Reich Minister for the Occupied Eastern Territories will keep in close contact with the Supreme Reich Authorities. If no agreement can be reached by direct negotiations, then my decision has to be obtained through the Reich Minister and Chief of the Reich Chancellery [the defendant Lammers].

Section 11

The ordinances necessary to carry out and to complement this decree will be issued by the Reich Minister for the Occupied Eastern Territories in agreement with the Reich Minister and Chief of the Reich Chancellery and the Chief of the High Command of the Armed Forces.

Fuehrer Headquarters, 17 July 1941
(L. S.)

The Fuehrer
Signed: ADOLF HITLER

The Chief of the High Command of the Armed Forces
Signed: KEITEL

The Reich Minister and Chief of the Reich Chancellery
Signed: DR. LAMMERS

First Decree of the Fuehrer on the Introduction of the Civil Administration in the Newly Occupied Eastern Territories

Dated 17 July 1941

I

The civil administration of the Bialystock district will be taken over by the Oberpraesident of the province of East Prussia.

The civil administration in the districts of Galicia which formerly belonged to Poland will be taken over by the Governor General.

The territories of the former independent states of Lithuania, Latvia, and Estonia as well as the area inhabited by White Ruthenians will be incorporated into the sphere of civil administration headed by the Reich Minister for the Occupied Eastern Territories. This whole territory will form a Reich Commissariat in the sense of my Decree on the Administration of the Newly Occupied Eastern Territories of 17 July 1941 and will receive the name of "Ostland." We shall reserve the right to subordinate the administration of smaller parts of the former independent state of Lithuania situated at the East Prussian border to the Oberpraesident of East Prussia.

II

According to the combat situation then existing, I shall designate and, at a later date, establish conclusively the external borders of the Reich Commissariat Ostland and the other territories mentioned under *I*. I shall also appoint the time when civil administration will be introduced in the areas mentioned under *I* or parts thereof.

III

As Reich Commissioner Ostland I appoint Gauleiter and Oberpraesident Hinrich Lohse. His official residence will be in Riga.
Fuehrer Headquarters, 17 July 1941
(L. S.)

The Fuehrer
Signed: ADOLF HITLER

The Chief of the High Command of the Armed Forces
Signed: KEITEL

The Reich Minister and Chief of the Reich Chancellery
Signed: DR. LAMMERS

TRANSLATION OF DOCUMENT NG–1688
PROSECUTION EXHIBIT 528

FUEHRER DECREE CONCERNING POLICE SECURITY WITHIN THE NEWLY OCCUPIED EASTERN TERRITORIES, 17 JULY 1941, SIGNED BY HITLER, KEITEL, AND DEFENDANT LAMMERS

Fuehrer Decree concerning Police Security within the Newly Occupied Eastern Territories of 17 July 1941

I

The police security measures of the newly Occupied Eastern Territories is a matter for the Reich Leader SS and Chief of the German Police.

II

After civilian administration has been introduced in these territories, the Reich Leader SS is authorized to give directions to the Reich Commissioners within the sphere of his task designated under *I*. As far as these directions are of a general character or of real political importance, they will have to go through the office of the Reich Minister for the Occupied Eastern Territories. However, not if a direct threatening danger is to be averted.

III

In order to carry out this police security, every Reich Commissioner will be assisted by one Higher SS and Police Leader, who is directly and personally subordinate to the Reich Commissioner.
To the Commissioners General and to chief and area commis-

sioners, SS and Police Leaders will be assigned who are directly and personally subordinate to them.

Fuehrer Headquarters, 17 July 1941

The Fuehrer

Signed: ADOLF HITLER

The Chief of the High Command of the Armed Forces

Signed: KEITEL

The Reich Minister and Chief of the Reich Chancellery

(*L. S.*) Signed: DR. LAMMERS

EXTRACTS FROM THE TESTIMONY OF DEFENCE WITNESS FRANZ HALDER BEFORE COMMISSION I*

DIRECT EXAMINATION

* * * * * * *

DR. KOCH (counsel for the defendant Koerner): Witness, we concluded the subject of Poland yesterday and I now turn to Russia. What do you know about Hitler's decision to attack Russia?

WITNESS HALDER: To begin with, I would like to say that my observations are not without fault, as a result of the fact that in my position as Chief of Staff of the Army I was exclusively handling operational tasks. The political considerations which are mainly concerned here were handled by the High Command of the Armed Forces, that is, Hitler's commanding body and I only heard of it occasionally and incompletely.

Q. Very well. Please tell me whatever you know. When did you hear for the first time that Hitler was considering an attack on Russia?

A. After looking at my daily notations, my so-called diary, I can see that the Commander in Chief of the Army, Field Marshal von Brauchitsch, on 22 July 1940, informed me of a discussion he had with Hitler. In doing that he expressed the possibility that Hitler expected or considered the possibility of an armed conflict with Russia and that for the first time he demanded that preparations be considered for the Army.

Q. Did you conclude from that that Hitler planned an attack on Russia?

A. No, I must admit that I did not consider the idea of a German attack on Russia seriously at first.

Q. As a result of the information you just mentioned, did you take any steps?

A. Yes. The Commander in Chief of the Army, Field Marshal von Brauchitsch, expressly instructed me to concern myself with

* Another extract from the testimony of Franz Halder is reproduced earlier in section VI E.

this problem. Thereupon I obtained the necessary maps and geographical data from Berlin, where they were kept in the Foreign Armies East Department, that is the competent department.

Q. Where were you at the time?

A. At the headquarters of the Army High Command in Fontainebleau.

Q. What happened after you obtained the materials?

A. Two things—One, as far as my time which was taken up by preparations on the attack on England, the so-called Sea Lion Operation, I dealt with the material myself; moreover, I got a senior staff officer who was particularly capable. That was after the conclusions of the campaign in France. The man I am talking about is General Marcks.

Q. What orders did Marcks receive?

A. Marcks was instructed to think out the operational basis within the framework of the viewpoints stated by Hitler, that is, given to von Brauchitsch.

DR. KOCH: For the record I would like to state that Marcks is spelled M-a-r-c-k-s.

Q. What were the viewpoints which Hitler communicated to Field Marshal von Brauchitsch which were to be the basis for Marcks' studies?

A. On the whole, they were the following: The German Army was to advance on Russian soil as far as it was necessary to prevent enemy air raids on Silesia and Berlin. Hitler also wanted to advance—and that is approximately the same aim—so that we would be enabled from the conquered territories to reach the most important areas of Russia with our air force. We figured that we would need approximately 100 divisions.

Q. When did Marcks conclude his studies?

A. In the course of August 1940, but I don't remember the exact date.

Q. What happened then?

A. The study was retained by me as basic material. Independently of Marcks' study, the chief of the Operations Department had been instructed by me to think out this problem.

Q. Who was the chief of the Operations Department?

A. General von Greiffenberg.

Q. These were theoretical preparations, that is, studies. Did you do anything else?

A. Independently of the instructions given orally by Hitler to the Commander in Chief of the Army, von Brauchitsch, the High Command of the Armed Forces issued an order in August for "Aufbau Ost" ["Built-up East"]. The contents were the following: to build up the eastern territories occupied by us after the

Polish campaign with regard to roads, railroads, communications, quarters, etc.

Q. In your opinion, could this order for the development of the East lead you to conclude that aggressive attacks were planned?

A. No. These were military preparations which could just as well be employed for defensive purposes. However, this order was proof of the fact that the OKW was getting worried about the East.

Q. When did you yourself see Hitler for the first time in this matter?

A. On 31 July 1940, the Commander in Chief of the Army, von Brauchitsch, and I accompanying him, were ordered to see Hitler. During this conference Hitler expressed the idea, among others, that in the spring of 1941 he expected the possibility of having to attack Russia and stated a number of operational viewpoints on how he thought this attack should be conducted.

Q. Was there any external cause for Hitler's viewpoint?

A. Militarily there was undoubtedly an occasion to think so in the constantly increasing strength of the Russian Army as compared with our Eastern Front. As to the political reasons which prompted Hitler's viewpoint, I do not know because I didn't know the inside story. I seem to remember that Russia's attitude toward Rumania played a decisive part, Bessarabia, Bukovina—

Q. You mentioned the increasing strength of Russian troops. When did these Russian preparations begin, these troop concentrations?

A. It is difficult to be precise. Even the first march of the Russian troops during the Polish campaign into eastern Poland took place with the disproportionately large number of troops. After the situation in Poland became stable, the troop strength was not decreased but constantly increased.

Q. When you talked with Hitler at that time, that is mid-1940, how large might have been the total strength of the Russians on the Eastern Front?

A. I cannot answer this question with certainty. Even at that time we had not built up our intelligence system on the Eastern Front. But I remember that it could have been around 100 divisions.

Q. What was the troop strength of the German forces which were on the Eastern Front at the same time?

A. The Army had perhaps half a dozen divisions, not of the first quality.

* * * * * * *

Q. If I understood your testimony correctly with regard to the year 1941 and try to characterize it, I would say that Germany

considered the possibility of an attack by Russia at all times and that situation would have continued if Germany had not attacked. Isn't that correct?

A. Yes. From the military point of view.

Q. Of course. The German attack soon gained a lot of soil. Did the findings of the German Army confirm your previous testimony about Russian assembly with the aid of this chart of Armored Group 3?*

A. The Russian assembly, as we had assumed it existed, was fully confirmed with regard to group formations and concentrations. There was some limitation with regard to troop strength. The Russian army completed its mobilization in the assembly area, that is, the reserves which had to be called in were sent to their command in the assembly area and these reserves had not arrived yet.

Q. What may we conclude from that for the possible time of the Russian attack?

A. That by mid-1941 the Russians were just about to attack.

Q. And I understand you correctly that the period of the presumable attack on the basis of the enemy intelligence which you learned of before the German attack was somewhat earlier than what you had to expect after your information of the Russian assembly and troop concentration preparations. How much of a difference is there in time?

A. Perhaps 1 or 2 months.

CROSS-EXAMINATION

* * * * * * *

MR. BARR: Witness, as far as Russia goes, you testified as a whole very satisfactorily in the opinion of the prosecution but I do have, nevertheless, some questions. You testified yesterday and today about the preparations for war against Germany by Russia. What proof of those preparations did you have, before the German attack took place, about those alleged preparations for war against Germany?

WITNESS HALDER: The proof which I cited this morning with reference to the constantly increasing Russian troop concentration opposite our Eastern front.

Q. And if I remember correctly you testified that the Russians had at least 100 divisions in Poland. Now, wherefrom did you obtain that figure?

* Reference is made to a chart appended to an affidavit of General Hermann Hoth, Document Koerner 405, Koerner Defense Exhibit 98, which is not reproduced herein. Hoth, in the affidavit, stated that the chart was put at the disposal of the defense in the "High Command" case in which Hoth was a defendant (see vols. X and XI, this series). Hoth further stated that the chart was drawn up by the High Command of the Armed Forces upon the basis of radio interception of enemy messages before the German invasion of the U.S.S.R.

A. I must make the correction that I did not speak of 100 divisions stationed in Poland but of the whole Eastern front. This information was received from the counterintelligence service. Later on it was verified by intercepted signal messages.

* * * * * * *

Q. You testified at length on this deployment of troops and on the threat against Germany. Now, will you tell us who at that time reported to you on an impending Russian offensive and attack?

A. I testified that these reports came to us through the counterintelligence service in the form of daily enemy situation reports.

Q. If I understand you correctly, you drew conclusions from the reports received by Canaris' counterintelligence?

A. Certainly.

Q. And will you tell us now to whom you reported of these threats and who advised Hitler that the Russians were preparing an attack?

A. As was my duty, I made daily reports to the Commander in Chief of the Army assessing the situation. The situation on the other side was daily noted on a map which was passed on to the High Command of the Armed Forces, that is, to Hitler's bureau.

Q. Witness, did you ever receive any precise information that the Russians planned and prepared an attack on Germany?

A. I never received an official Russian communiqué about this.

Q. I did not ask you whether you received any official information. I only asked you whether you received any exact information, precise information?

A. I received the precise reports of the counterintelligence service. I had the exact findings of radio interception and I mean, after all, that these are some data.

Q. Would you not consider it as only common sense, if the Russians would have wanted to attack Germany, that they would have done so while the German armies were busy in the West and not have waited until these German armies would be free to be used in the East?

A. There are very plausible reasons which explain why the Russians did not attack Germany in 1939 and 1940.

Q. Is it correct then that up to July 1940 you had no information of any impending attack by the Russians?

A. I never quite understand this term "information."

Q. Knowledge.

A. I had knowledge of the Russian troop concentrations. From two different sides I had received reports on Russian operational plans.

Q. Witness, I think you did not quite get my question. I asked you whether you possessed such knowledge already in July 1940?

A. Not in 1940. I beg your pardon. There is a misunderstanding.

Q. So it is correct then what you quoted in your so-called diary on 22 July 1940 and I quote: "There is no evidence that Russia is engaging in any activity against us"?[1]

A. At that time there was no evidence of that but I may say that at that time intelligence in the East was not yet organized, that means we had no radio interception service or anything of this kind.

Q. Now you said you did not have any evidence at that date of any activities of the Russians against Germany, is that so?

A. Yes, that is correct.

Q. Now, will you explain to me now why you noted on the same day in your diary, and I quote:

"8. The Russian problem must now receive our attention. We must begin to think over the possibilities. The following data have been given to the Fuehrer:

"*a.* Assembly of German forces will take at least 4 to 6 weeks.

"*b.* The objective is to crush the Russian Army or seize as much ground as is necessary to prevent enemy air attacks on Berlin and the Silesian industrial area. It is desirable to penetrate far enough to enable the air force to smash Russia's strategic regions."

And under "*d*"

"Manpower required—80 to 100 divisions. Russia has 50 to 75 good divisions."[2]

Now do you get my question? Can you explain to me why on the same day on which you noted that there was no evidence whatsoever that the Russians were engaging in any activities against Germany, you already noted this plan of attack in your so-called diary?

---

[1] This quotation from Halder's diary is one of many entries made under the date 22 July 1940. The immediately preceding entries, which show the context of the sentence quoted, are the following: "6. Fuehrer will decide by middle of the week, after Raeder's report, whether invasion will be carried through *this fall.* If not now, not before May next. We shall probably know conclusively by the end of the week. Final decision whether submarine and air warfare will be waged in its sharpest form probably will not be taken before beginning of August. In that case, invasion will take place about 25 August (Inform Operations Section). 7. Stalin is flirting with Britain to keep her in the war and tie us down, with a view to gain time and take what he wants, knowing he could not get it once peace has returned. He has an interest in not letting Germany become too strong, but there are no indications of any Russian aggressiveness against us."

[2] The omitted entry reads: "*c.* Political aims: Ukrainian State; Federation of Baltic States; White Russia; Finland; Baltic States as a permanent thorn in the flesh." The last entry under item 8 reads: "*e.* Operations: What operational objective could be attained? What strength have we available? Timing and area of assembly? Gateways of attack: Baltic States, Finland, Ukraine. Protect Berlin and Silesian industrial area. Protection of Rumanian oil fields (check with Operations Section)."

A. May I ask you to see from the diary what the heading of this notation is?

Q. I don't think that is necessary. I just asked you—

A. That is very relevant because this neither represents my opinion nor that of the Commander in Chief of the Army, but is a report of the Commander in Chief of the Army on a conversation which he, von Brauchitsch, had with Hitler.

Q. Perfectly all right. You said yourself, "The following data have been given to the Fuehrer." Now who compiled this data if not you?

A. Which data were handed over?

Q. I just quoted them: "*a.* Assembly of German forces will take at least 4 to 6 weeks" and so forth.

A. These are data which the Fuehrer obtained from his office, that is the OKW, Armed Forces Operational Staff.

Q. Now, on the same day, that is again on 22 July 1940, you noted, quoting von Etzdorf, and I quote:

> "Russia and Britain. The two want to get together. The Russians are afraid of compromising themselves with respect to us. They don't want any war."

Would you say that this was another indication that Russia wanted to attack Germany?

A. No. I didn't claim that and I do not claim it now.

Q. Thank you. Witness, is it not true that shortly thereafter, that is, at the Fuehrer conference on 31 July 1940, the final decision to attack Russia was taken?

A. That is not correct, in my opinion.

Q. Now, will you explain to me why you quoted in your diary on 31 July 1940 and I quote: "Let it be May 1941, 5 months to finish the job. To do it this year still would be best, but unified action would be impossible now."

A. May I ask you what you want to have answered?

Q. I asked you about the final decision to attack Russia, and whether this decision was made at this Fuehrer conference, and you answered my question in the negative. Therefore—

A. Yes, in the negative.

Q. And I quoted the entry in your diary. I just quoted and asked you why you made these notes in your diary?

A. I made this entry because during that conference the basis for the preparations was set forth, but a decision was not made.

* * * * * * *

Q. Is it correct that as early as November 1940, General Paulus started with war games to prepare for the attack in the East?

A. Not for the preparation of the attack in the East, but for

clarification of the problems. This question was explained by me this morning.

Q. You noted on 3 December 1940 and I quote: "Morning: War Game: Eastern Campaign, Part II of operation, up to attainment of line Minsk-Kiev." Now was this not a maneuver conducted to prepare the attainment of the line, Minsk-Kiev, or not?

A. Certainly.

Q. Is it correct that the code name, Otto, meant the plan for the attack on Russia?

A. I didn't understand the code name.

Q. Otto.

A. The deliberations regarding the East were started first under the code name of "Otto", O for Osten [East].

Q. And it is correct that von Brauchitsch and you conferred with Hitler concerning plan "Otto"?

A. I testified this morning about these conferences.

Q. Nevertheless, will you be kind enough to answer my question which I will repeat. Is it true that von Brauchitsch and you conferred with Hitler concerning Plan Otto?

A. I said this morning that at the beginning of December the basic operational data were submitted on Hitler's orders, and later, at the beginning of February, assembly and operational orders.

Q. So I can take it that it is right that von Brauchitsch and you conferred with Hitler concerning Plan Otto?

A. The expression "conferred" might lead to a misunderstanding.

Q. Choose any word you like in this connection.

A. A report was made.

Q. And do you remember that on 5 December 1940, you noted in your diary, and I quote: "Otto preparations must get fully under way in accordance with the basic principles of our plans; proposed time end of May."

A. That is the same. In other words, as I said this morning, in conjunction with the presentation of the basic operational data on 5 December, Hitler issued the order that the preparations were to be started.

Q. Thank you. And I understand that these preparations in fact started.

A. As I said this morning, orders and the preparations for the assembly of forces were started thereupon.

* * * * * * *

Q. Witness, is it not true that as late as 5 May 1941, Krebs returned from Moscow where he had deputized for the German military attaché reporting that, and I quote, "The Russians

would do anything to avoid war, indeed on every issue short of territorial concessions."

A. I remember this report by Krebs.

Q. Is it not true that on 22 June 1941 the attack on Russia took place according to plans?

A. Yes.

Q. And is it not true that when the invasion finally took place the Russians were totally unprepared for the German attack?

A. The latter is not true.

Q. So is it not true then what you noted on 22 June 1941, and I quote,

> "Tactical surprise of the enemy has apparently been achieved along the entire line. The bridges across the Bug and the other rivers on the river frontier were undefended and fell intact in our hands. That the enemy was taken by surprise is evidenced by the fact that events caught the troops in their quarters; that planes stood covered on the airfields; and that forward elements, when seeing themselves unexpectedly attacked, called up the rear for instructions."*

A. The decisive word of this sentence is contained in the first sentence—tactical surprise. I don't know whether you want a military discussion.

Q. Yes, you can give it. You will explain to me first whether there is a tactical surprise possible if there was a strategic preparation for attack. This is a school question, isn't it, very easy to be answered.

A. The whole deployment of Russian troops was arranged for the offensive. According to reports which we received later on, the Russians did not believe in a German attack; that is, the Russian front line soldier was but awaiting his marching orders. Consequently, he was surprised by the German attack.

Q. Witness, you have been called here by counsel for defense as a witness for the defendant Koerner. When did you meet Koerner for the first time?

A. I don't remember with any certainty.

Q. What is your personal knowledge of Koerner's activities?

A. I have no personal knowledge of Koerner. We saw each other superficially only two or three times.

Q. Do you mean to say that you are not in a position to testify on the activities of the defendant Koerner?

A. No, by no means.

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* This entry is from the first paragraph of a section of Halder's Diary entitled "The Campaign in Russia." The first part of this entry reads: "22 June 1941 (Sunday). 1st Day. The morning reports indicate that all Armies (except Eleventh) have started the offensive according to plan." Then follows the entry quoted here in the examination.

Q. You could not testify on Koerner's activities as Chairman of the General Council [of the Four Year Plan]?

A. I hardly know the word General Council.

Q. You cannot testify as to Koerner's activities as deputy of Goering in general?

A. I couldn't do that either.

Q. You could not testify as to the activities of the defendant Koerner in connection with the Economic Executive Staff East?

A. No.

Q. And you could not, I assume, testify as to Koerner's activities in connection with the Central Planning Board?

A. No.

MR. BARR: I have no further questions, Your Honor.

REDIRECT EXAMINATION

* * * * * * *

DR. KOCH: In the further course of the cross-examination the total strength of the Russian troops facing the German forces was mentioned several times. I am not quite certain in my mind as to your answers. I think you once answered to two questions of the same content. Once you answered with one and a half million and another time you said you couldn't make an estimate. Apparently you understood the two questions differently. May I repeat this question? What is your estimate of the total strength of the Russian troops facing Germany in May 1941?

WITNESS HALDER: In May of 1941?

Q. Let us say shortly before the German attack on Russia.

A. That's very hard to guess that.

Q. What did this figure of one and a half million you mentioned before refer to?

A. The estimate was based on the number of divisions.

Q. And the number of divisions you knew from intercepted messages.

A. That is right. It was more than 150 divisions.

* * * * * * *

Q. One more question with regard to the objections presented by the High Command of the Army to Hitler. I would like you to repeat what you said this morning.

A. These misgivings were presented to Hitler and as I explained he apparently had prepared their rejection very carefully. I could give you some details on how he disapproved of our objections but that would take too long. On the whole, Hitler overruled all objections.

DR. KOCH: Thank you. I have no further questions.

MR. BARR: I have only one question.

RECROSS-EXAMINATION

MR. BARR: Witness, is it correct that when Hitler, in spite of the advice to the contrary which he received, insisted upon carrying out all of his orders, you stayed on as Chief of the General Staff?

A. That is correct.

MR. BARR: I have no further questions.

PRESIDING COMMISSIONER CRAWFORD: The witness is excused and may retire from the stand.

DR. KOCH: One more question, Your Honor.

COMMISSIONER CRAWFORD: It must only be on what he asked then. Don't ask any question except in reply to what he asked. Don't bring in anything new.

REDIRECT EXAMINATION:

DR. KOCH: With regard to the last question by prosecution, the one just put to you, did you consider at the time what would be your duty in this conflict of conscience that you experienced as a soldier?

A. I discussed this question very often with the then Commander in Chief of the Army, Field Marshal von Brauchitsch.

Q. Then, in consideration of all circumstances you considered it your duty to stay although you had military misgivings about the Russian campaign?

A. Yes. Because of a sense of responsibility I felt for German soldiers who had been entrusted to us.

DR. KOCH: Thank you.

MR. BARR: This necessitates another question.

RECROSS EXAMINATION:

MR. BARR: Did you think, Witness, that in helping to prepare attack upon attack and war upon war you were helping to save the lives of German soldiers?

A. Would you repeat the question, please?

Q. Did you think, Witness, that in staying in your office as Chief of the German General Staff and in helping according to Hitler's wishes to prepare invasion upon invasion you helped save the lives of German soldiers? Just answer yes or no, please.

A. Yes. That is my conviction.

DR. KOCH: One more question, Your Honor.

REDIRECT EXAMINATION:

DR. KOCH: What were the considerations that moved you to leave your office in 1942 in connection with what you were just asked?

A. My separation from office I have provoked myself. It only occurred at the moment when I saw no more possibility of attaining anything for my German Army from Hitler.

DR. KOCH: I have no further questions.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KOERNER*

DIRECT EXAMINATION

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DR. KOCH (counsel for the defendant Koerner): Herr Koerner, now we pass to the alleged participation in the so-called war of aggression against Russia. Do you know anything about the reasons which may have caused Hitler to undertake this attack on Russia? Please tell us only what you know from your own experience.

DEFENDANT KOERNER: The assembly of large masses of Russian troops along the Polish territory newly seized by Russia and in particular troop assemblies along the Rumanian frontier were of course most unwelcome to the Fuehrer. This Russian massing of troops started as early as 1939 and in the fall of 1940 there was a lot of talk about it. The dispatch of German training divisions to Rumania was believed to be expected with that although these training divisions were mainly intended as a countermeasure against surprise attacks possibly from the area of Greece into the Rumanian oil fields.

PRESIDING JUDGE CHRISTIANSON: Does that conclude the answer to that question?

DEFENDANT KOERNER: Yes.

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DR. KOCH: Mr. Koerner, we had just started discussing the outbreak of war against Russia and you were just telling us that people in Germany were alarmed at the concentration of troops in the occupied territories and that finally, in the fall of that year, the Russian Foreign Minister, Molotov, came to Germany to pay a visit. What do you know of this visit of Molotov?

A. After the unfavorable result of the Molotov visit in November of 1940, I heard from Goering that Hitler had placed especially great hopes in this visit. Hitler had believed that despite the inconvenient attitude of the Russian diplomats, he would be able to come to a diplomatic agreement with them. I had the impression that Goering, too, was very disappointed about the matter and, as far as I am able to recall the conferences that took place at the time, Hitler must have been the same. It was by

* Further extracts from the testimony of defendant Koerner are reproduced above in section VI B and in volume XIII, section X C 2, X D 2, X E 2, and XI C 1.

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sheer coincidence that during the last days of November we went to Goering—there were several men of the Economic Ministry and the Four Year Plan there—for the usual reports and discussions, and on the occasion of that discussion, Goering notified us concerning the results of the Molotov visit in very brief words and he availed himself of that opportunity of going on to speak on the question of Russia.

Q. Witness, I would ask you to be more specific and go into greater detail concerning this encounter. If you know any further details of that meeting, if you know anything else that Goering may have said concerning the Molotov visit, please say so.

A. Goering told us approximately the following: Unfortunately, the Molotov visit did not achieve the results that Hitler and Goering had previously hoped for. Molotov could not be moved to sign any agreements. Hitler was now of the firm opinion that Russia did not desire to come to any understanding with Germany. This attitude of Russia, as represented by Molotov, now caused us to expect that one day Russia was going to desire to come into military conflict with Germany, and it was a definite fact that we would not be able to avoid any such military conflict from breaking out.

Q. Did Goering already at that time speak of the possibility of any German attack on Russia?

A. No. Not with one single word. The possibility that we might eventually perhaps attack Russia was never mentioned by Goering at all.

DR. KOCH: As compared with this, I wish to refer to a document contained in document book 122–A, page 1, both English and German version. Unfortunately, Your Honors, I do not have the exhibit number. It is document 2353–PS.

(To the witness): I will have it shown to you, Herr Koerner.

JUDGE CHRISTIANSON: What was the number of that exhibit, Counsel, please?

DR. KOCH: Unfortunately, Your Honor, I do not know. The document is contained in book 122, page 1 of the English. I failed to make a note of the exhibit number.

JUDGE CHRISTIANSON: I thought you said book 122–A.

THE INTERPRETER: Your Honor, in the German they have A and B. It is 122 in English.

MR. LYON: It is Exhibit 1049,* Your Honors.

JUDGE CHRISTIANSON: We have it now. We were just confused about the book number.

DR. KOCH: Before entering into the details of this document,

* Reproduced in part earlier in this section.

please tell us who General Thomas was, the author of this document involved?

A. For many years Thomas had been Chief of the Military Economic and Armament Office with the High Command of the Wehrmacht. He was the officer who represented the highest level with the Wehrmacht on all questions of military economy. This man Thomas took part in this conference.

Q. And apart from Thomas, who else took part in it?

A. As can be seen from this Thomas document introduced, State Secretary Neumann, State Sacretary Backe, Under State Secretary von Hanneken, Thomas, and myself. I also remember that around this time we went to Goering in connection with a different matter altogether and then came to talk of this matter, as I testified before.

Q. And what was the objective of this conference, as such?

A. You mean the original objective?

Q. Yes.

A. In view of the fact that Hanneken and Thomas were present, I assume that it involved questions of quotas, particularly in view of the new iron distribution which was to be initiated as of 1 January of the next year, in general, before starting on the next term and in order to determine the final iron quota. In view of the fact that in general there were always substantial discrepancies between the claims of civilian economy and the claims of the Wehrmacht, it was necessary for a conference to take place with Goering before the final quotas were established.

Q. Thank you, Herr Koerner, this suffices on the general data. Now let us refer to Thomas' statements themselves. You have the document before you. In this document Thomas says that the men present at that time, November of 1940, had been notified of the planned operation in the East. Doesn't this contradict, to a certain extent, the description that you just gave us concerning what Goering told you?

A. If you are going to interpret this literally, word by word, of course you will find a contradiction because if Thomas speaks of a planned operation in the East, this causes the impression to arise as though already at that time it had been definitely planned and even already ordered. But if Thomas did not use this specific language, then his statement signifies the very same thing that I testified to just a minute ago. Be that as it may, that was not the case, but it was in the manner that I testified to. To speak of any final decision is incorrect. There was no mention whatever of our attacking Russia. All that was discussed were only the difficulties that Germany was going to be faced with and resulting from these difficulties it became clear that Goering was anticipating all eventualities and was indicating them to us.

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Q. And when, after the discussion of November 1940, was the Russia problem discussed in official circles subsequently?

A. In January of 1941 a discussion once again took place before Goering concerning questions of general economic character. On that occasion Goering once again came to speak of Russia. This time however he said it was necessary to seriously contemplate a collision with Russia taking place and he solicited very detailed information as to the economic repercussions of such a case. With the exception of State Secretary Backe, all of the men expressed themselves very clearly and very energetically to the effect that, as seen from the economic point of view, it was impossible to wage war with Russia. The extraordinary amount of deliveries of materials coming in from Russia, on the basis of treaties concluded, arrived very punctually and these would have been lost, and what we would get to replace the loss we wouldn't yet know. In addition to that, the very substantial transit shipments via Russia originating in the Far East, would also be lost for Germany. However, as far as the fat and rubber supply of Germany was concerned, these supplies were of decisive importance. The tremendous consumption of economic goods of all types that would be entailed by such a war was in no ratio whatsoever to the difficulties arising. The only man who did not concur with this view was Backe.

Q. And why did Backe not concur with this general view?

A. Backe tried to make it clear to Goering that it would be possible to extract a lot of grain from Russia.

Q. And what did Goering say in answer to all of this?

A. Goering calmed us down. I remember that for a fact. He told us that he was only submitting the questions to cover all eventualities. However, in spite of that, Thomas had already been given the order at that time that he was to institute his Working Staff Russia in the Military Economics and Armament Office. I mentioned that before, this working staff was exclusively a research staff, the members on it were designed to study economic relationships and conditions in order to gather as much data as possible concerning Russia. Up to that period of time incredibly little data was available concerning Russia.

Q. And on your part, did you have anything to do with this Working Staff Russia?

A. No. This working staff worked exclusively within the sphere of the Wehrmacht.

Q. And what did you do after this discussion had taken place with Goering—this second discussion?

A. After this discussion had taken place within the circle of my office, deliberations were set up. As to what we were going to answer Goering to his question, and for that purpose a memorandum was drafted in the Four Year Plan in which Goering was once again shown the unfavorable repercussions of a conflict with Russia, and substantial numerical data were supplied.

Q. And was this memorandum received by Goering?

A. Yes, of course.

Q. When approximately?

A. As far as I remember, this took place in the course of February 1941.

Q. And what did Goering have to say to it?

A. Goering showed great interest in what he read in this memorandum. He himself had very little to say to it but he inquired in great detail as to the individual data and facts; and all he said was, now in view of that he was going to submit the contents of the memorandum to the Fuehrer.

Q. And did the memorandum achieve any results at all?

A. I think the answer is "No" but at the same time Thomas also had drafted a memorandum, in which memorandum he pointed to the economic dangers arising from a conflict with Russia as seen from the point of military economy.

Q. Did you believe that such a memorandum might possibly have achieved any result under any circumstances?

A. Well, that is what we hoped at least. No decision had yet been passed.

Q. What do you think was Thomas' opinion on this problem?

A. Thomas' opinion was absolutely the same, that is, the reason for his likewise drawing up a similar memorandum but of course more along the lines of military economics.

Q. In connection with subsequent conferences, did Goering speak of the possibility of any German attack?

A. No. Even on subsequent occasions this was not discussed. However, it wasn't necessary to discuss it because in our circle the military problem was of no interest but only in respect to precautionary measures which had to be undertaken in case war did not break out.

Q. I think you made a mistake, Witness.

A. Precautions had to be taken in the event war broke out.

Q. But such very detailed planning concerning the exploitation of Russian territory, as it has now come to see the light of day and in addition, one going into such depth was surely inclined to make it clear that an attack was going to take place after all, even the Caucasus was mentioned in part. I have two questions

in connection with that. Did you know of such planning going on at that time; and if you did, what conclusion did you draw?

A. No. According to German military trend of thought, it was a matter of course that a defense had to be conducted along offensive lines. If Russia were to attack, we would counterattack and at that time there was no doubt in my mind that such a counterattack would always have to be successful. Apart from that, we already knew at that time that if war was going to break out, it was necessary for us to conquer as large a portion of Russian territory as was possible in order to find a compensation for the lacking Russian supplies.

Q. You speak of compensation. From what the prosecution has said, Germany attacked Russia for that very reason, in order to exploit it economically. According to this concept of view, the entire war from the very start was planned as a war of exploitation. What do you have to say to that?

A. I have already testified that all experts held the very reverse view and considerable misgivings from the economic point of view, and again they were opposed to any military conflicts from the economic point of view, but there is one incident which shows unambiguously what Hitler's own thoughts were.

Q. And what are you referring to, Herr Koerner?

A. In the spring of 1941 Minister Schnurre reported orally to the Fuehrer concerning the results of the negotiations conducted by him in Moscow in recent months. These negotiations referred to the renewal of the commercial treaty with Russia on the basis of which large quantities of food and raw materials were being supplied to Germany by Russia. The transit shipments that I referred to previously, originating in the Far East via Russia, thus again came to be safeguarded.

Q. How do you know that?

A. Goering told me that. In connection with a discussion which I will render to you right away, Goering had intermediated for Schnurre to report directly to the Fuehrer, and at the request of Goering, Schnurre had availed himself of the opportunity of his report to the Fuehrer in order to point out in a very skillful manner to Hitler, the economic disadvantages to be derived from a military conflict with Russia. After the discussion had taken place between Hitler and Schnurre, Hitler told Goering that everyone on all sides was always raising economic misgivings against a threatening war with Russia. From now onwards he wasn't going to listen to any more of that kind of talk and from now on he was going to stop up his ears in order to get his peace of mind. If Russia was going to attack Germany, then no economic mis-

givings would have any effect in changing the situation that would arise.

Q. Two further short questions in connection with your occasional discussions with Goering prior to the outbreak of the war. Did Goering specify any deadline to you for the outbreak of war?

A. As far as the imminent attack was concerned, it was only approximately 10 days before the actual outbreak that I came to hear anything at all of the date set, as far as I remember. This must have been 12 June 1941.

Q. And prior to 12 June, without having been given any special notification, wasn't it necessary for you to anticipate weeks before that time that Germany would attack?

A. No. The way the people look at it today is absolutely erroneous. What I heard at that time was that a strong concentration of troops was being amassed on both sides constantly and I heard that the situation became an ever more menacing one, but now whether a war was actually going to break out and if so who was going to be the party attacking, nobody was able to say then.

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Q. I will now submit to you a further prosecution document, Witness, contained in document book 122–B, page 44 of the English, 167 of the German, Exhibit 367.* If you take page 3 of the German text, which is page 1 of the English, you will find a remark by Rosenberg, at the bottom of page 44: "In this connection I had conferences with General Thomas, State Secretary Koerner, State Secretary Backe, Ministerial Director Riecke, General Schubert, and others." How can you explain this statement?

A. It is correct that, on one occasion, I went to Rosenberg with Thomas but that didn't involve the organization of the Economic Executive Staff East, but the following. Shortly before operations broke out, Goering had told me that in the event of a military conflict with Russia breaking out, portions of the occupied areas of Russia, in accordance with the Fuehrer's desire, were to be placed under civilian administrations at a very early date. Goering desired to prevent an independent civilian administrative organization being set up in these areas. By reason of this fact he ordered me jointly with Thomas to bring up this question and discuss it with Rosenberg in accordance with Goering's point of view, and that's what happened; and subsequently Rosenberg did not insist and yielded up his claim for setting up independent administrative organizations. He accepted it as sufficient for him to take Riecke from the Ministry of Food and Schlotterer

* Document 1039–PS, reproduced in part earlier in this section.

from the Reich Ministry of Economics, and to use them, have them assigned to him as liaison men. Rosenberg being in agreement with this, my mission was terminated.

Q. And approximately when did this conference with Rosenberg take place?

A. At this stage I wouldn't be able to recall the date exactly. In any case it took place approximately a short time before operations actually set in.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT LAMMERS[1]

DIRECT EXAMINATION

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DR. SEIDL (counsel for defendant Lammers) : That completes all documents put in by the prosecution to prove your participation in the preparation for the compaign in Yugoslavia and Greece.[2] We need not enter more particularly into the content of these documents and we can turn now to the campaign against Russia which is also dealt with in document book 37. I begin with the Fuehrer decree appointing Rosenberg as the Fuehrer's Commissioner for the Central Control of Questions connected with the eastern European area, dated 20 April. This is NG–2871 put in evidence by the prosecution as Exhibit 525.[3] I ask you first, Witness, how did this decree come about at all, dated 20 April 1941, and did you cosign it?

A. In the spring of 1941, namely in the second half of April, Hitler ordered me to come to him and in a conversation that lasted only a few minutes he told me roughly the following. He was afraid of a military involvement with Russia. Suspicious concentrations of troops had been reported in Russia and likewise other military measures which were obviously directed against Germany, such as the building of airfields in the former Polish territories that had become part of Russia and similar measures. He then said that there was reason to fear that the Soviet Union was going to attack Germany suddenly and, consequently, preparatory measures would have to be taken. However, the Fuehrer did not speak to me about military measures. He said nothing about that. Rather, he continued saying that he needed a man who was acquainted with the political and economic conditions in the eastern area and who, in case of war, could make prepara-

[1] Further extracts from the testimony of defendant Lammers are reproduced above in sections VI D, VI E, and VI F, and in volume XIII, sections IX B 3 and XI C 2.

[2] The direct examination of defendant Lammers concerning documents involving Yugoslavia and Greece may be found in the mimeographed transcript for 13 September 1948 (*pp. 21046–21049*).

[3] Reproduced earlier in this section.

tions for setting up a civilian administration in the Russian areas which might be occupied. The Fuehrer then added that he had chosen Reichsleiter Rosenberg for this post. He was to have an undefined and as far reaching as possible power of attorney which would give him the authority to establish contact with all the relevant Reich Ministries and to negotiate with them. At that time, Rosenberg was not a member of the Reich government. The Fuehrer also said that he had discussed all details with Rosenberg or would do so, so far as necessary, but in the questions of the administration which was to be prepared for, Rosenberg would get in touch with me. I can remember that at that time I expressed a few misgivings about having Rosenberg occupy this post which, however, the Fuehrer brushed aside with the remark that he had no better man than Rosenberg. A war of aggression against Russia was not mentioned to me by the Fuehrer at this time at all. I was alone with him. Nor was there any mention at that time of the setting up of any Eastern Ministry.

DR. SEIDL: Mr. President, in this connection I should like to refer to the documents that we have put in evidence in Lammers document books 9, 10, 11, and 12. The documents in question are Exhibits Nos. 180 to 282,[1] inclusive. Furthermore, I should like to draw the Tribunal's attention to the fact that on 9 September 1948—in other words, a few days ago—there was an examination before the Commissioner which is fundamental in this matter. General Halder was examined, who, in the period between 1938 and 1942, was Chief of the General Staff of the German Army.[2] Unfortunately, we have not yet received German transcript. Consequently, I must limit myself to remarking that it was on 9 September.

Q. Witness, you testified that the Fuehrer gave you instructions. What did you then do on the basis of these instructions?

A. After a brief conversation that I had with Rosenberg, since I felt obligated to hear what he had to say, I drew up the Fuehrer decree in which Rosenberg was appointed as Commissioner for the Central Control of Questions connected with the eastern European area and, in the same decree, I gave him his power to set up a corresponding Ministry. The Fuehrer signed this decree and I cosigned in the usual form. That's all there is to that.

Q. Was this appointment of Rosenberg's communicated to other persons also?

A. Yes. The Fuehrer gave me the instructions, which I carried out the next day, to communicate this matter to the Chief of the High Command of the Armed Forces, to Reich Marshal Goering, and to the Ministry of Economics; perhaps to others also, though

[1] The following of the Lammers Defense Exhibits mentioned are reproduced earlier in this section: 215 (in part), 237, 262, and 282.

[2] Extracts from the testimony of General Halder are reproduced earlier in this section.

I am not sure today. I did this and Rosenberg received either the original copy of the decree or a certified photostatic copy which I handed to him.

Q. Before or after the appointment, did Reich Leader Rosenberg have discussions with the Fuehrer and did you participate in them?

A. I know that there were such discussions of some duration but I did not take part in them.

Q. What did you hear further about this matter in the following period?

A. Shortly thereafter, probably at the end of April, Rosenberg got in touch with me respecting the administration that was to be prepared for and for the purposes of this contact that Rosenberg established with me, he had prepared some notes which are to be found in book 37 under 1025–PS.[1] However, I received knowledge of these notes only here at his trial. Rosenberg liked to draw up long memoranda.

Q. Let me remark for the record that this Document 1025–PS is Prosecution Exhibit 524, book 37, page 14. Can you establish the authenticity of these notes or the copy here?

A. Neither one nor the other. Perhaps, and quite probably, this memorandum is really one of Rosenberg's but it is not signed nor is it even initialed. Consequently, I cannot grant that its contents are authentic. I didn't approve it at that time and I have looked at it only briefly now, but it does contain questions which possibly I discussed with Rosenberg at that time.

JUDGE POWERS: I have a note to the effect that it was admitted subject to showing as to its source. Can you give us any information as to whether that showing has been furnished?

MR. LEWIS: The document comes from the captured Rosenberg files.

JUDGE MAGUIRE: But, Mr. Lewis, my note is that this was provisionally received because there was no authentication or certification as to where it came from and the prosecution was to obtain that and perhaps you could check up and find out whether that authentication was procured.

MR. LEWIS: We'll do that, sir. We believe that the certification is there and if it is not, it will be there.[2]

PRESIDING JUDGE CHRISTIANSON: You'll advise us as soon as you can, Mr. Lewis, so that matter won't just be left in abeyance and perhaps forgotten.

MR. LEWIS: The prosecution will do that.

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[1] Prosecution Exhibit 524, reproduced earlier in this section.

[2] On this same day, 13 September 1948, one of the document analysts executed a certificate to the effect that this was one of the documents found in the "Rosenberg files". This certificate was then filed with the exhibit.

PRESIDING JUDGE CHRISTIANSON: Go ahead, Dr. Seidl.

DR. SEIDL: How did this affair develop?

A. Rosenberg then sent me various drafts. Herr von Stutterheim, my expert, and a functionary of Rosenberg's discussed these drafts. We reached no final decisions nor did I adopt any attitude toward these drafts because first we had to wait to see whether the event which the Fuehrer feared, namely war with Soviet Russia, should break out. I knew of no military or economic preparations directed against Russia. I was not in Berlin at that time. I was in the field headquarters in Bruck an der Muhr [Austria] because these events took place during the campaign against Yugoslavia.

Q. Then what did you do with these drafts for decrees?

A. The drafts for the directives which Rosenberg proposes and von Stutterheim edited were submitted by me to the Fuehrer.

Q. Did the Fuehrer express himself on this decree or give any directives?

A. He did not express himself regarding the drafts. He merely stated that he personally would speak with various gentlemen whose participation he considered necessary.

Q. What did you then do?

A. I considered it advisable to inform the Chief of the OKW of the drafts and I transmitted them to him with a letter dated 20 May 1941, which is to be found in Document 1188–PS* in volume 37.

DR. SEIDL: Let me remark for the record that this is Exhibit 526, volume 37, page 16.

Please continue your answer.

A. It is possible that I also sent the drafts to Goering and Funk and others. I can't state that with certainty today, however.

Q. Did you take part in military or economic preparations for war against Soviet Russia or did you even have knowledge of such?

A. At that time I took part in no discussions of any military or economic questions with respect to preparation for war against Russia. These matters were obviously kept so strictly secret at that time that nothing leaked out. Moreover, I did not participate as a matter of basic principle in any military or economic matters.

Q. But how can you explain, then, that you had no knowledge of these things if you had taken part in the formal work of drawing up the decree setting up a civilian administration in the eastern territories?

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* This letter and two of the enclosures to it are reproduced earlier in this section as parts of Document 1188–PS, Prosecution Exhibit 526.

A. Well, first of all these questions didn't interest me; and then, these discussions which, as I subsequently found out took place, were kept so strictly secret and the reason for this was the strict regulations regarding secrecy which I have already mentioned and which I need not repeat now, the well-known three commandments of the Fuehrer,[1] and I am convinced that in this case as in many other cases he observed these commandments of his vis-a-vis, namely, by not informing me of any plan for an attack on Russia because he said himself that that was not absolutely necessary for my task of drawing up plans for a civilian administration and the draft of Rosenberg's powers.

Q. It seems to me that the question of your knowledge of an intended war against Russia is so important that I must ask you a few additional questions. First, did you subsequently find out something that might explain why you did not know of the intended war against Russia?

A. Of course, I subsequently found out a few things about this. First of all I found certain conclusions drawn in the IMT verdict in which this question is discussed, namely, that there was a duty to maintain strictest secrecy and it is stated in several passages that this operation was kept secret under the camouflage name of "Barbarossa." Particularly, however, I found an explanation of this particularly strict secrecy in the Fuehrer Instruction No. 21 of 18 December 1940 which is here as Document 446–PS, Prosecution Exhibit 341,[2] volume 8–A, page 35. Here it is particularly emphasized that decisive importance is laid, and must be laid on not having the intention of aggression become known. This was an instruction which the Fuehrer had given to military agencies as well as to those agencies which might possibly deal with these matters in the civilian field. It became thus unequivocally clear to me that the Fuehrer in view of this very careful maintenance of secrecy regarding his aggressive plans gave me no information regarding these matters and that he deliberately restricted himself to this, undoubtedly he would feel some need to give me some reason for this and that reason I have already testified to.

Q. You have testified regarding this reason of the Fuehrer, that the Fuehrer told you that he heard that Russia was going to attack Germany. Did you believe these statements of the Fuehrer at that time?

A. Yes, I did and I had not the slightest reason to doubt these statements of his; but over and beyond that I heard these statements of the Fuehrer corroborated by several OKW staff officers, namely, that the fear existed of a Russian attack on Germany.

[1] Hitler's so-called Basic Order concerning secret matters, dated 25 September 1941, Document Koerner 147, Koerner Defense Exhibit 57, is reproduced in volume XIII, section IX B.

[2] Reproduced in part earlier in this section.

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DR. SEIDL: Witness, I turn now to another document in document book 8–B. It is Document 1039–PS and was put in evidence as Prosecution Exhibit 367[1] on page 64. This document contains a report regarding the preparatory work in questions involving the eastern European area.

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DR. SEIDL (continuing): I want to ask you, Dr. Lammers, whether you took part in these preparations?

A. No. This document is completely unknown to me. There is no mention of my name at all, only at the conclusion of the report is there mention of the set-up of the administration.

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Q. Now, you have already mentioned the Fuehrer decree [directive] Number 21 of 18 December 1940 which is designated as the Barbarossa case. Didn't you at least know this term Barbarossa?

A. Not at that time. The meaning of that camouflage name I became aware of after the outbreak of the war because Keitel always maintained secrecy toward me. He used code words of one sort or another all the time and moreover I didn't ask him too much about the whole matter anyway. At that time, at any rate, I did not know what this code word Barbarossa meant.

Q. Now I shall put to you a document that you have already mentioned, to wit, Document 1188–PS, Prosecution Exhibit 526, document book 37, page 16. This is the discussion between Keitel and Rosenberg on 1 May 1941.[2] I ask you, did you receive this memorandum or have knowledge of the contents of that discussion?

A. I did not receive this memorandum. I saw it for the first time in the document book here. The discussions that Keitel had with Rosenberg at that time were not participated in by me nor did I have any knowledge of them.

Q. Well then, what did you find out about the plan for a German attack on Russia?

A. Only when it was put into operation did I find out about it. Exactly as in the case of the other campaigns I was informed on

[1] Reproduced in part earlier in this section.

[2] This memorandum, a part of Document 1188–PS, Prosecution Exhibit 526, is not reproduced herein. It concerned discussions as to when military administration was to be succeeded by civilian administration during the course of the forthcoming occupation of Russia; the agreement between the High Command of the Army and the Reich Leader SS Himmler on the employment of "Einsatzgruppen" (Special Action Groups) in the rear army areas; and the tasks of the military commanders in the territories to be occupied. With respect to the activities of the "Einsatzgruppen" after the invasion of Russia, much evidence is reproduced in the volumes concerning two other Nuernberg trials, the "Einsatzgruppen Case," volume IV, this series, and the "High Command Case," volumes X and XI. this series.

22 June by radio of the German march into Russia. To be sure every once in a while I had certain inner misgivings deep inside to the effect that an aggressive war might be undertaken, but I didn't have any really palpable feelings in that direction.

DR. SEIDL: Mr. President, we have dealt with all the prosecution documents referring to the period before 22 June 1941—that is the period before the outbreak of the war between the German Reich and the U.S.S.R. In view of the cross-examination of Darré which is intended for this afternoon I ask the Tribunal whether I should continue with the documents that refer to a later period.

PRESIDING JUDGE CHRISTIANSON: Yes. We had better utilize the 10 minutes that remain of our morning session. Go ahead.

DR. SEIDL: Witness, what happened after the outbreak of the war against Soviet Russia so far as you were involved. I refer here to Document NG–1688, Prosecution Exhibit 528,[1] volume 37, page 26, and Document NG–1280, Prosecution Exhibit 529,[2] volume 37, page 28.

A. Would you please repeat your question?

Q. I asked you, what happened that involved you in your capacity as Chief of the Reich Chancellery after the outbreak of the war against Soviet Russia, and in particular why you had any part in the decrees in these two documents and cosigned them.

A. After the outbreak of the war with Russia and after German troops shortly thereafter occupied Russian territory, Rosenberg urged that the decrees be drawn up setting up the administration for these territories. He told me then that the Fuehrer wished an Eastern Ministry to be set up and that he, Rosenberg, was to be appointed Eastern Minister. He again sent me drafts which I edited and from the various drafts of innumerable different decrees the Fuehrer finally approved two which then had force of law, which are to be found in the prosecution documents just mentioned, dated 17 July 1941. The decree regarding the economy in the Occupied Eastern Territories, which like most of the others, was cosigned by me, is dated sometime before then, namely 29 June 1941. And the decree appointing armed forces commanders which I did not cosign is dated 25 June 1941. The signing of these decrees took place on the basis of a discussion to which the Fuehrer had invited me which took place on 16 July 1941.

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[1] A Fuehrer decree of 17 July 1941, signed by Hitler, Keitel, and defendant Lammers, concerning police security in the newly occupied eastern territories. This decree is reproduced earlier in this section.

[2] A letter from the defendant Lammers to Rosenberg, dated 18 July 1941, transmitting copies of four Fuehrer decrees concerning the occupied eastern territories. This letter and the decrees are reproduced earlier in this section.

Q. In connection with your last testimony I come now to the document you last mentioned containing a memorandum of a discussion on 16 July 1941. This is Document L–221, Exhibit 527,[1] volume 37, page 19.

PRESIDING JUDGE CHRISTIANSON: Just a minute here. Has that document actually been received? My notations indicate that it was rejected and to be resubmitted later on. Now what is the status of that, Mr. Prosecutor? Have you anything to give us on that?

MR. LEWIS: The prosecution reports that document was resubmitted with the certification thereon, Sir.[2]

PRESIDING JUDGE CHRISTIANSON: So it's now in evidence.

MR. LEWIS: That is right, Sir.

PRESIDING JUDGE CHRISTIANSON: Very well. Go ahead, Counsel, with your discussion.

DR. SEIDL: Witness, I shall put the photostatic copy of this document to you. It contains a memorandum regarding a discussion with the Fuehrer. I ask you first, does this memorandum bear any signature, any handwritten notes, any stamp or any other indication of a noteworthy nature?

A. There is no signature on this memorandum. At the top there is an illegible pencil note. This file certainly didn't come from my files. From the opening words of the memorandum I should like to infer that the memorandum was taken down by Bormann who here designates himself with "myself" or "I".

Q. Did you ever see this memorandum and does this memorandum correctly reproduce the course of discussion with the Fuehrer?

A. Only after the collapse did I see this memorandum. In the course of various interrogations it was put to me and as far as its accuracy is concerned it is, in my opinion, only partially correct. But of course, I can't say that in a few words either. No doubt, I shall have occasion to return to it in detail.

Q. So far as you remember what was the real course of this discussion with the Fuehrer?

A. On 16 July I was asked by Reichsleiter Bormann to come to the Fuehrer and I was told I should bring the decrees with me. Present at the Fuehrer's also were Reich Marshal Goering, Reichsleiter Rosenberg, the Chief of the High Command of the Armed Forces and Reichsleiter Bormann. I hadn't counted on all these people being present when I brought these decrees to be signed. The Fuehrer opened the discussion with lengthy explanations of his war aims against Russia, they are presented in Bormann's

[1] Reproduced earlier in this section.

[2] Reference is made to a certificate concerning the files in which the document was found by Allied investigators.

file note in his [Bormann's] exaggerating fashion, with emphasis on some forceful expressions which the Fuehrer favored. In addition this memorandum is a one-sided presentation of Bormann's point of view which did not have the approval of the others attending. Moreover the memorandum was not submitted for approval as it should have been if it were an authentic set of minutes. The war aims, as set forth in that memorandum, corresponds in part to what I can now recall after having looked again at this document. It is doubtless correct that the Fuehrer stated that he wanted to carry the war against Russia to the Ural Mountains. Various details contained in the memorandum I cannot remember.

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[Further materials from the record in the Ministries Case appear in volumes XIII and XIV. See Contents, p. VI, this volume.]

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